

Exhibit 25

JLH

**CITY OF SAN DIEGO
MEMORANDUM
Draft**

CONFIDENTIAL

DATE: December 12, 2001

TO: Honorable Mayor and City Council

FROM: Cathy Lexin, Human Resources Director
Elmer Heap, Deputy City Attorney

SUBJECT: Leave of Absence Without Pay for Union Officials and Retirement Benefit Authorization

DRAFT

The Memorandum of Understanding (MOU) for each of the City's four unions, Municipal Employees Association (MEA), Police Officers Association (POA), Fire Fighters, Local 145 (Local 145) and American Federation of State, County and Municipal Employees, Local 127, AFL-CIO, (Local 127) provide enabling authority for one or two union officials to take unpaid leave of absence from City employment and work full-time for the union (attachments 1 through 4) each with slightly differing provisions

The Municipal Code governing retirement benefits permits any City employee who returns from approved leave to "purchase" the leave time from the City job they left when no contributions were being made, and thus no service credit earned. Specifically, for the first year of the approved leave, the employee would have to pay the San Diego City Employee Retirement System (SDCERS) the employee contribution, plus interest. For leaves beyond one (1) year, the employee would be required to pay both the employer and employee contribution plus interest.

To date, only POA and MEA Presidents/Officers have exercised the Leave Without Pay option. A recent request by the President of Local 145, combined with a union activity audit, have brought the following information to light, prompting this request.

POA

The POA MOU provides that the City will support a Leave of Absence Without Pay for up to two (2) POA members at the same time. The current as well as past Presidents of the POA have taken an unpaid leave of absence from the Police Department while serving as the President of the POA Board of Directors, and have been paid a salary established by the POA. Upon returning to active duty, the past-presidents have exercised their right under the Municipal Code to purchase the leave time based upon the salary of the Police Department position from which they took leave (e.g., Police Sergeant, Police Captain, etc.)

In 1989, the incoming POA President requested and was administratively authorized to pay retirement contributions on a pay-period-by-pay-period basis while on "presidential leave" to avoid the future lump sum obligation. When these contributions began, the Retirement Office calculated based upon the POA-paid salary as President, rather than the Police Department salary of a Police Officer/Detective. We have not been able to locate any documentation explaining why the POA salary was used as the basis for calculating contributions. It is not clear whether this was an intentional change, or an unintentional occurrence. Nonetheless, this practice began in 1989 and has continued administratively with three (3) subsequent POA Presidents with the practice being obscure to current City management until recently. It should be noted that, to date, there have been no unauthorized retirement payments made to any past union president since no union president has retired from any position other than a City position.

MEA

The current MEA President has held office since 1986 and has been on an approved Leave of Absence Without Pay this entire period. During labor negotiations in 1997, a number of retirement enhancements were implemented. As part of these changes, a specific provision was added to the Municipal Code 24.0201(c) (attachment 5) authorizing the duly elected presidents of recognized labor organization to continue making retirement contributions to SDCERS while on "presidential leave." In 1997, the President of MEA exercised this feature, purchased service from 1986 through 1997, and began making prospective retirement contributions to the Retirement Office at a higher rate based on the union salary. However, it was not apparent that these contributions, like the POA President, were calculated based upon the MEA-paid salary for the President.

Local 145

After the City Auditor's office issues a report on union activity time reporting, the President of Local 145 has made a request for "Presidential Leave" in a manner slightly modified from that described in Article 47 of the MOU (attached). The MOU provides that the President may work 20% on Fire Department business, 40% on Union business which qualifies as City-paid release time, and the remaining 40% on other Union business (non-release time qualifying activity) for which the Local would compensate or reimburse the City. The provisions of this Article have never been activated by the Local 145 President purportedly pending the satisfactory resolution of legal and tax-related concerns by the City. As an alternative, the President has now proposed a different version, in essence being "on the clock" for 60% of his time (20% on Fire Department business and 40% qualifying Union-release time activities) with the remaining 40% treated as Presidential Leave. As such, while on Presidential Leave, the Local would pay the Union Presidents salary, etc. directly to the Union President. He then would be eligible to buy back presidential leave as other union presidents. As to other City benefits, such as annual leave earned, flexible benefit contributions, etc., the employee/President would be treated as any other part time (60%) employee. His City pay would be at the 60% rate as well.

Retirement Benefit

The retirement benefit formula for City employees is established by the City Council in the Municipal Code, and includes a factor, the employee's highest one year salary. It has become

apparent that the Retirement Officer's practice for twelve (12) years with POA, and four (4) years with MEA of accepting contributions based upon the Union salary, has created an expectation that the Union President's/employee's retirement benefit will be based upon their Union salary, should that be the highest one year salary. There are two suggested options for the implementation of the Leave of Absence Without Pay for Union Officials and Retirement Benefit Authorization.

Blended High One Year Methodology:

This method, recommended by the City Manager, provides for a "Blended high one year calculation" methodology which utilizes the applicable High One Year Salary based on the number of years of service in each of the Union President's employee positions (City employee, or Union President, or the City employee/Union President service together, as may be the case) in consideration of the retirement contribution made relative to the specific position. There is no additional cost or unfunded liability to SDCERS associated with the *Blended* methodology.

Combined High One Year Methodology:

This method, sought by the Union Presidents, applies a "Combined high one year calculation methodology" which utilizes the total highest one year salary attained as either the Union President, or the *Combined* total salary as Union President AND City employee irrespective of whether sufficient contributions have been made to the SDCERS to support such a proposed benefit calculation. The SDCERS Administrator estimates the unfunded liability for the *Combined* High One Year Methodology to be approximately \$300,000 for the current union presidents.

The attachments (1-3) provide a comparison of the benefit differential which occurs between the Blended High One Year Methodology and the Combined High One Year Methodology.

Discussion

The Meyers-Milias-Brown Act, Government Code Sections 3500-3511 (MMBA), governs employer-employee relations in the State of California, and establishes the public purpose and value of establishing full communications between public agencies and their employees. MMBA as well as local MOU provisions, dictate that the City must grant "a reasonable number of employees" with "reasonable time off" without loss of compensation or benefits in order to meet with the City's management representatives or to prepare for representation of employees. In light of this obligation, there is a financial benefit to the City when Union Presidents take a Leave Without Pay from the City while performing Union responsibilities, given the City's obligation to compensate much of this time. The benefit to the Union President/employee is freedom from reporting activities and coordinating their City employment work schedules with their activities as Union President, some of which would be outside the obligation of the City to compensate.

RECOMMENDATION

It is recommended that the City Council amend the Municipal Code, implementing Blended High

One Year Methodology, to allow a duly elected President of a recognized labor organization who is granted a Leave Without Pay, whether full time or in the part-time manner proposed by Local 145, the option of (1) continuing contributions to SDCERS based upon their salary at the time of Leave, or (2) making contributions based upon the Union-paid salary as President, or (3) making contributions based upon the combination of employee salary and union-paid salary as in the case of Local 145. It is further recommended that the City Council set a salary cap for purpose of retirement contributions and potentially benefit calculations, for any Union President electing this provision, and that the salary cap be the equivalent of Assistant Department Directors and the City's Labor Relations Manager (currently \$102,000). This would ensure comparable treatment among the labor organizations, and eliminate the appearance that a Union could control the retirement benefit of an individual employee. This recommendation is only intended to apply to the President of each labor organization, and not to any additional union officers who may request Leave Without Pay. If approved, this matter would be discussed with the four labor organizations in the context of the upcoming meet and confer for successor Memoranda of Understanding, then an amendment to the Municipal Code would be prepared for adoption by the City Council.

ALTERNATIVE

The alternative to this recommendation would be to notify MEA and POA Presidents that they have been contributing an inappropriate retirement contribution, and that the City would not consider the Union-established salary in determining high one year for retirement benefit calculations. It is relatively certain that this would generate litigation.

Cathy Lexin
Human Resources Director

Attachments

ARTICLE 35

P.O.A. REPRESENTATION

City Management will support a request to the Civil Service Commission for a Leave of Absence without pay for two (2) P.O.A. members for the same period of time, unless there is compelling reason to not support a "job to be saved" type leave. In the latter case, the City will meet and confer with the Association in advance of any such objection.

ARTICLE 15

Representation Leave

City management will support a request to the Civil Service Commission for a Leave of Absence without pay for two City employees, upon request by the M.E.A. These employees must be employed in job classifications in bargaining units represented by M.E.A. as shown in Appendix A. Such leave will be "Job to be Saved", unless there is a compelling reason not to grant such a leave. In the latter case, the City shall meet and confer with the M.E.A. in advance of any such objection.

At M.E.A.'s request, where feasible within the workload demands of the City, Management will permit the President of M.E.A., during his/her term of office, to move into a one-half time status. This decision is an exclusive management right which cannot be grieved or appealed.

ARTICLE 47

Presidential Leave

The parties agree to a work-release program for the president of Local 145 with the following elements:

1. Union President works 20% of his/her scheduled work week performing usual range of duties for his/her job classification.
2. The City will compensate the union president for hours worked during scheduled working hours for formal meet and confer meetings, on-site grievance hearings, and attendance at necessary City Council or Retirement Board meetings on the condition that such hours worked are pre-approved by the City Manager or his representative and are documented by accurate time cards. Such hours will not normally exceed 40% of the scheduled work week.
3. Until the City receives approval from the IRS permitting the City to be reimbursed by Local 145 for the remaining 40% or more of presidential leave time at 130% of the normal rate for compensation, Local 145 shall have the responsibility for compensating the president directly. The City will make a good faith effort to obtain a ruling on this issue as soon as possible.
4. The City through its Management Team will support any necessary changes to the Civil Service Rules and the Rules of the Retirement System to authorize the above-described arrangement, including a provision permitting union presidents to remain full-time contributing active members of the City Employees Retirement System even when working less than half-time for the City -- on the condition that the union bears the cost of the benefit covering presidential leave time either through reimbursement to the City or by direct payment.
5. During periods of presidential leave, the union president agrees to waive any rights against the City pursuant to Workers' Compensation Law, Industrial Leave, and the Fair Labor Standards Act.

ARTICLE 19

Presidential Leave

City Management will support a request to the Civil Service Commission for Leave of Absence without pay by the president of Local 127 during his/her term, unless there is a compelling reason to not support a "Job to be Saved" type leave. In the latter case, the City will meet and confer with the Union in advance of any such objection.

PRESIDENTIAL LEAVE
 RETIREMENT BENEFIT CALCULATIONS
 JUDIE ITALIANO
 26-Nov-01

Presidential Leave

Judie Italiano	
Birth date	04/07/1946
Member date	04/18/1977
MEA President	06/15/1986
MEA President Member Date	09/01/1997
Current MEA salary	\$ 3,780.40 pay period
City Position prior to Union President - Clerical Assistant II	
Last City Salary	\$ 429.20 pay period
Salary of a Payroll Specialist II, class 1648, e step as of December 22	\$ 1,320.00 pay period
Assumptions - Out of office and retire	01/01/2002
Service at Retirement	24.77 years
Age at retirement	55 + years
Service as MEA President as Member	4.428 per pay period

BLENDED METHODOLOGY

<u>Line No</u>	<u>Description</u>	<u>Amount</u>
1	Union annual salary	\$ 98,290.40
2	Years of Service as President	4.428
3	Retirement Allowance Factor	0.0225
4	Annual retirement allowance based on years as union president (Line 1 X Line 2 X Line 3)	\$ 9,792.67
5	City Salary (\$1,320 X 26)	\$ 34,320.00
6	City years of service	20.342
7	Retirement Allowance Factor	0.0225
8	Annual retirement allowance based on years as City employee (line 5 X line 6 X Line 7)	\$ 15,708.09
9	Annual Blended Retirement allowance (line 4 + line 8)	\$ 25,500.76

MBINED METHODOLOGY

10	Total Years of Service	24.77
11	Retirement Allowance Factor	0.0225
12	MEA Salary	\$ 98,290.40
13	Annual Combined Retirement Allowance (Line 10 X Line 11 X Line 12)	\$ 54,779.70
	Difference between combined methodology and blended (line 13 - line 9)	\$ 29,278.94

The annual retirement allowance is \$29,278.94 higher using the combined retirement allowance method.

Article 4: City Employees' Retirement System

Division 2: Contribution of General Members
*("Authority and Effective Date" incorp. 1-22-1952
by O-5046 N.S. contained in O-10792 O.S. adopted
11-29-1926; repealed 10-25-1962 by O-8744 N.S.)
("Contribution of Members" added 10-25-1962 by O-8744 N.S.)
(Retitled to "Contribution of General Members"
on 12-8-1976 by O-11964 N.S.)*

§24.0201 Contribution of General Members

For General Members, the Board shall provide:

- (a) The normal rates of contribution, except for safety members, shall be based on age as of July 1, 1954, or thereafter at the nearest birthday at the time of entrance into the system.
- (b) The normal rates of contribution for each member, except Safety Members, shall be such as will provide an average Annuity at age 57 1/2 equal to 1/120th of the Member's Final Compensation, according to the tables adopted by the Board for each year of service rendered after entering the System.
- (c) An employee who is granted a special leave of absence without pay in order to serve as the duly elected president of a recognized employee labor organization, shall be permitted, if he or she so elects, to continue making contributions during the period of presidential leave in an amount prescribed in accordance with Section 24.1307.

(Amended 3-31-1997 by O-18392 N.S.)

§24.0202 Adoption of General Member Contributions Rates

The Board, based upon the advice of the Actuary, shall periodically adopt the rate of contribution of each General Member according to age at the time of entry into the Retirement System, said rates to be contained in the operating Tables furnished to the Board by the System's Actuary.

(Amended 3-31-1997 by O-18392 N.S.)

PRESIDENTIAL LEAVE
 RETIREMENT BENEFIT CALCULATIONS
 BILL FARRAR
 26-Nov-01

Presidential Leave

Bill Farrar	
Birth date	12/31/1946
Member date	02/18/1972
POA President	02/05/2000
Current biweekly POA salary	\$ 3,048.92
Assumption - Retire 1/1/2002	01/01/2002
Service at Retirement	26.3 years
Age at retirement	55 + years
City Position prior to Union President - Police Officer II (5% Post Certificate Premium Pay)	
Police Officer II, class 1693, with POST certificate, e-step salary December 22	\$ 2,387.28 per pay period
Service as POA President	1.964 years
Annual City Salary	\$ 62,069.28
Annual POA Salary	\$ 79,271.92

Computed Years of service at retirement:

Retirement date	01/01/2002
Member date	02/18/1972
Total years of service	29.89
POA president	02/05/2000
Years of service as POA president	1.91
Years of service as City employee	27.98
Total years of service	29.89

<u>Line No</u>	<u>Description</u>	<u>Amount</u>
Blended Methodology		
1	City Years of Service	27.98
2	Retirement Allowance Factor	0.03
3	City Salary	\$ 62,069.28
4	Annual retirement allowance based on City service (Line 1 X Line 2 X Line 3)	\$ 52,100.95
5	Union Years of Service	1.81
6	Retirement Allowance Factor	0.03
7	Union Salary	\$ 79,271.92
8	Annual retirement allowance based on Union service (Line 5 X Line 6 X Line 7)	\$ 4,542.28
9	Total Blended retirement allowance (line 4 + line 8)	\$ 56,643.23
Combined Methodology:		
10	Total years of service (City and POA)	29.89
11	Retirement Allowance Factor	0.03
12	POA Salary (use higher of POA or City salary)	\$ 79,271.92
13	Annual retirement allowance based on POA salary (Line 10 X Line 11 X Line 12)	\$ 71,083.13
	Difference between Combined Methodology and Blended (Line 13 - Line 9)	\$ 14,439.90

The annual retirement allowance using the combined methodology is \$14,439.90 higher than the retirement allowance using the blended methodology.

PRESIDENTIAL LEAVE
RETIREMENT BENEFIT CALCULATIONS
RON SAATHOFF
10-Dec-01

Presidential Leave

Ron Saathoff

Birth date

Member date

02/21/1948

Union President CERS date

01/28/1977

City Position - Fire Captain (EMT pay and 5% Admin Assignment Pay)

01/01/2002

Last City salary

Current Union Salary

\$ 80,699.84 annually

Assumptions - Retire

\$ 34,083.50 annually

Service at Retirement

01/01/2002

Age at Retirement

24.99 years

53 +years

Blended Methodology:

1 City salary	
2 Retirement Allowance factor	\$ 80,699.84
3 City Years of Service	0.03
4 Annual retirement allowance based on City service (line 1 * line 2 * line 3)	24.99
5	\$ 60,500.67
6 Union salary	
7 Retirement allowance factor	not applicable
8 Union years of service	
9 Annual retirement allowance based on Union service	0
10	not applicable
11 Annual retirement allowance, blended method from line 4	\$ 60,500.67

mbined Methodology:

12 Years of service	24.99
13 City paid salary	
14 Union	\$ 80,699.84
15 Total salary (line 13 +line 14)	\$ 34,083.50
16 Factor	\$ 114,783.34
17 Total years of service	0.03
18 Annual retirement allowance, combined method (line 15 X line 16 X Line 17)	24.99
19 Allowance does not exceed CAP of 90% of combined salary	\$ 86,053.07
	\$ 103,305.01
20 Difference (line 18 - line 11)	\$ 25,552.40

The annual retirement allowance is \$25,552.40 higher using the combined methodology.

PRESIDENTIAL LEAVE
 RETIREMENT BENEFIT CALCULATIONS
 UDIE ITALIANO
 26-Nov-01

Presidential Leave

Judie Italiano

Birth date

04/07/1946

Member date

04/18/1977

MEA President

06/15/1986

MEA President Member Date

09/01/1997

Current MEA salary

\$ 3,780.40 pay period

City Position prior to Union President - Clerical Assistant II

Last City Salary

\$ 429.20 pay period

Assumptions - Out of office and retire

01/01/2002

Service at Retirement

24.77 years

Age at retirement

55 + years

Service as MEA President as Member

4.428 per pay period

BLENDED METHODOLOGY

<u>Line No</u>	<u>Description</u>	<u>Amount</u>
1	Union annual salary	\$ 98,290.40
2	Years of Service as President	4.428
3	Retirement Allowance Factor	0.0225
4	Annual retirement allowance based on years as union president (Line 1 X Line 2 X Line 3)	\$ 9,792.67
5	City Salary	\$ 11,159.20
6	City years of service	20.342
7	Retirement Allowance Factor	0.0225
8	Annual retirement allowance based on years as City employee (line 5 X line 6 X Line 7)	\$ 5,107.51
9	Annual Blended Retirement allowance (line 4 + line 8)	\$ 14,900.18

MBINED METHODOLOGY

10	Total Years of Service	24.77
11	Retirement Allowance Factor	0.0225
12	MEA Salary	\$ 98,290.40
13	Annual Combined Retirement Allowance (Line 10 X Line 11 X Line 12)	\$ 54,779.70
	Difference between combined methodology and blended (line 13 - line 9)	\$ 39,879.51

The annual retirement allowance is \$39,879.51 higher using the combined retirement allowance method.

PRESIDENTIAL LEAVE
RETIREMENT BENEFIT CALCULATIONS
RON SAATHOFF
26-Nov-01

Presidential Leave

Ron Saathoff

Birth date

Member date

Union President CERS date

City Position - Fire Captain (EMT pay and 5% Admin Assignment Pay)

Last City salary

Current Union Salary

Assumptions - Retire

Service at Retirement

Age at Retirement

02/21/1948

01/28/1977

01/01/2002

\$ 80,699.84 pay period

\$ 34,083.50 per month

01/01/2002

24.99 years

53 +years

Blended Methodology:

1 City salary	
2 Retirement Allowance factor	\$ 80,699.84
3 City Years of Service	0.03
4 Annual retirement allowance based on City service (line 1 * line 2 * line 3)	24.99
5	\$ 60,500.67
6 Union salary	
7 Retirement allowance factor	not applicable
8 Union years of service	0
9 Annual retirement allowance based on Union service	not applicable
10	
11 Annual retirement allowance, blended method from line 4	\$ 60,500.67

mbined Methodology:

12 Years of service	24.99
13 City paid salary	\$ 80,699.84
14 Union	\$ 34,083.50
15 Total salary (line 13 +line 14)	\$ 114,783.34
16 Factor	0.03
17 Total years of service	24.99
18 Annual retirement allowance, combined method (line 15 X line 16 X Line 17)	\$ 86,053.07
19 Allowance does not exceed CAP of 90% of combined salary	\$ 103,305.01
20 Difference (line 18 - line 11)	\$ 25,552.40

The annual retirement allowance is \$25,552.40 higher using the combined methodology.

PRESIDENTIAL LEAVE
 RETIREMENT BENEFIT CALCULATIONS
 BILL FARRAR
 26-Nov-01

Presidential Leave

Bill Farrar	
Birth date	12/31/1946
Member date	02/18/1972
POA President	02/05/2000
Current biweekly POA salary	\$ 3,048.92
Assumption - Retire 1/1/2002	01/01/2002
Service at Retirement	26.3 years
Age at retirement	55 + years
City Position prior to Union President - Police Officer II (5% Post Certificate Premium Pay)	
Salary at time of LWOP for POA President	\$ 2,205.60 per pay period
Service as POA President	1.964 years
Annual City Salary	\$ 57,345.60
Annual POA Salary	\$ 79,271.92

Computed Years of service at retirement:

Retirement date	01/01/2002
Member date	02/18/1972
Total years of service	29.89
POA president	02/05/2000
Years of service as POA president	1.91
Years of service as City employee	27.98
Total years of service	29.89

<u>Line No</u>	<u>Description</u>	<u>Amount</u>
Blended Methodology		
1	City Years of Service	27.98
2	Retirement Allowance Factor	0.03
3	City Salary	\$ 57,345.60
4	Annual retirement allowance based on City service (Line 1 X Line 2 X Line 3)	\$ 48,135.90
5	Union Years of Service	1.91
6	Retirement Allowance Factor	0.03
7	Union Salary	\$ 79,271.92
8	Annual retirement allowance based on Union service (Line 5 X Line 6 X Line 7)	\$ 4,542.28
9	Total Blended retirement allowance (line 4 + line 8)	\$ 52,678.18
Combined Methodology:		
10	Total years of service (City and POA)	29.89
11	Retirement Allowance Factor	0.03
12	POA Salary (use higher of POA or City salary)	\$ 79,271.92
13	Annual retirement allowance based on POA salary (Line 10 X Line 11 X Line 12)	\$ 71,083.13
	Difference between Combined Methodology and Blended (Line 13 - Line 9)	\$ 18,404.95

The annual retirement allowance using the combined methodology is \$18,404.95 higher than the retirement allowance using the blended methodology.

Exhibit 26

From: Lawrence Grissom
To: Dan Kelley
Date: 11/9/01 2:52PM
Subject: Re: Costing of Retirement Proposal

Dan

Please refer to my previous work sheets on Italiano and Farrar.

Italiano — retire at age 61 with 30 years = 70.5%
Salary = \$98,290.4 x 70.5% = \$69,294.73

571,745

Farrar — retire at age 55+ with 30 years = 90%
Salary = \$79,271.92 x 90% = \$71,344.73

Saathoff — retire at age 55+ with 30 years + 90%
Salary = \$114,964.66 x 90% = \$103,468.19

Lawrence B. Grissom
lgrissom@sandiego.gov
(619) 533-4655

>>> Dan Kelley 11/05 12:46 PM >>>

Can you please run the cost of providing such a benefit as referenced in the attached.

Also, can you please run similar calculations for Judie Italiano (MEA) and Bill Farrar (POA) based on their current union salary on which their unions are currently making payments to SDCERS.

If possible, we would like to have the numbers by Monday, November 12th.

Please call me at X65964 if you need additional information.

Thanks

Dan

201 157.5

Exhibit 27

From: Dan Kelley
To: Ed Ryan
Date: 3/13/02 11:38AM
Subject: Presidential Leave - Local 145

Elmer Hagg

Rick S

Dan Kelley

1/2 hr

In the Local 145 MOU, Presidential Leave, Article 47 (p. 48 of the MOU) provides for the union to reimburse the City (emphasis added)
ARTICLE 47

Presidential Leave

The parties agree to a work-release program for the president of Local 145 with the following elements:

1. Union President works 20% of his/her scheduled work week performing usual range of duties for his/her job classification.
2. The City will compensate the union president for hours worked during scheduled working hours for formal meet and confer meetings, on-site grievance hearings, and attendance at necessary City Council or Retirement Board meetings on the condition that such hours worked are pre-approved by the City Manager or his representative and are documented by accurate time cards. Such hours will not normally exceed 40% of the scheduled work week.
3. Until the City receives approval from the IRS permitting the City to be reimbursed by Local 145 for the remaining 40% or more of presidential leave time at 130% of the normal rate for compensation, Local 145 shall have the responsibility for compensating the president directly. The City will make a good faith effort to obtain a ruling on this issue as soon as possible.
4. The City through its Management Team will support any necessary changes to the Civil Service Rules and the Rules of the Retirement System to authorize the above-described arrangement, including a provision permitting union presidents to remain full-time contributing active members of the City Employees Retirement System even when working less than half-time for the City - on the condition that the union bears the cost of the benefit covering presidential leave time either through reimbursement to the City or by direct payment.
5. During periods of presidential leave, the union president agrees to waive any rights against the City pursuant to Workers' Compensation Law, Industrial Leave, and the Fair Labor Standards Act.

The Union has requested and Fire and Life Safety is seeking authorization to have the 40% or more transmitted to the City in a manner similar to the way the City is reimbursed by the LLC when City employees work directly for the LLC.

Can that be done?

Thank you

Dan Kelley
Labor Relations Manager

CC: Ralph Edwards; Virgil Hathaway

Talk about 13th April
& Cost of 13th
Amplified industrial
leaving 13

Exhibit 28

From: Judy Zellers
To: Kyle Elser
Date: Thursday, March 28, 2002 8:55:50 AM
Subject: Presidential Leave

Kyle,

As we discussed, Bill Farrar, POA President, has an appointment to enter the DROP program on April 9th. His retirement allowance would be calculated at that date. Vincent asked if our review would be completed by then and I told him it would not be. During our meeting, Vincent mentioned the plan was to base Farrar's allowance on his high 1 year salary, including the Union paid salary. I told Vincent that I did not think there was a legal basis for doing this. After discussions, Vincent said he would take the issue to Legal for review. I told him we would send him an email on the issue stating our views.

Attached are some notes I prepared previously on this issue. Also, there are 4 other members who have served as president of POA - we need to discuss if we should audit these members as well.

Thanks.
Judy

Exhibit 29

From: Kyle Elser
To: DMTruver@sandiego.gov
Date: 4/6/02 7:51AM
Subject: Re: Recommendations (I'll be out of the office until Thursday, 4/10/02.)

I'll be out of the office until Thursday, 4/10/02.

>>> DMTruver 04/06/02 07:51 >>>

I agree with telling Mr. Farrar that the issue is still under discussion and giving him . I wouldn't say it is the City's position but an issue that is being looked at and a determination has not been made at this point.

<<< Paul Barnett 4/5 1:20p >>>

We will share your research and opinion with Mr. Farrar when he meets with us regarding his retirement so that he is aware of the City's position regarding his compensation to be used for retirement calculations. Our intention at the meeting with this member is to prepare retirement estimates using the lower City compensation, as you recommend, and another set of retirement estimates using the higher Union compensation. It will then be the responsibility of Mr. Farrar, his Union and the City as the employer to resolve this issue and formally advise the Retirement System as to which compensation figure should be used to determine retirement benefits.

I might note, however, that the Union has been submitting retirement contributions on behalf of Mr. Farrar based on the higher Union compensation figure. This is the amount we have been recording in our system to reflect Mr. Farrar's retirement benefit. Please let me know if you have any further questions.

>>> Kyle Elser 03/29/02 09:59AM >>>
Vincent,

It came to our attention that Bill Farrar, POA President, has an appointment to enter the DROP program on April 9th. We understand there is an issue whether to use Union or City compensation to calculate his retirement allowance. We recommend SDSERS consult with Labor Relations and Attorneys to determine if there is a legal basis for using Union compensation rather than City compensation to calculate the allowance. We also recommend SDSERS use his City compensation for the calculation until this issue is resolved. Attached are the City Charter Sections requiring Civil Service approval for an increase in compensation. The Union salaries have not been approved by the Civil Service Commission, nor does SDSERS have a reciprocal agreement with the Unions. Please call me if you have any questions. Thank you.

Kyle Elser
Internal Audit Supervisor
533-3720

Exhibit 30



SAN DIEGO POLICE OFFICERS ASSOCIATION INC.

8388 VICKERS STREET, SAN DIEGO, CALIFORNIA 92111-2118
(658) 573-1199 Fax (658) 573-1574

Post-It® Fax Note	7871	Date	4-16-02	# of pages	1
To	Dan Kelley	From	Larry Grissom		
Co./Dept		Co.			
Phone #		Phone #			
Fax #		Fax #			

April 10, 2002

SD RET OFFICE
2002 APR 12 PM 4:18

Bill Farrar
President
Stephen Margatts
Vice President
Bill Nemec
Treasurer
Tom Rhodes
Secretary
Directors:
Tom Bostedt
Rick Hansen
Scott Nallhoff
Mitchell Wallace
Bob Warner

Lawrence Grissom
City Employees Retirement System
401 "B" Street 4th Floor
San Diego, California 92101

Dear Mr. Grissom:

LARRY

I arrived yesterday for an appointment with Lance Haim to discuss my DROP options. Vincent Hayes joined us and advised me that Ed Ryan of the Auditor's office is of the opinion that retirement benefits cannot be calculated on the union salary of one of the four labor groups.

As you know CERS has been accepting contributions into the system on behalf of MEA and POA presidents for many years. Apparently the issue has been academic until now because no one has actually triggered a benefit calculation.

Mr. Hayes states that CERS has merely received an e-mail from Mr. Ryan stating his opinion. Nevertheless, he states that should I enter the DROP now that the benefit calculation would be on my City pay. I confess to confusion and frustration as to how this e-mail could dictate policy to CERS that is counter to an understanding that goes back at least ten years.

Clearly this issue must be dealt with immediately. Accordingly I ask that CERS join me in disagreeing with Mr. Ryan's assertion. If this requires action by the Trustees then I would like to be on next week's agenda.

Sincerely,

Bill Farrar
President

858-518-

7783

474
8566

EXHIBIT	327
WIT.	Neap
DATE	8-16-2000
Kramm & Associates, Inc.	



Affiliated with California and National Association of Police Organizations, Inc.

Court's Ex.	1112
Case #	CD 190930
Rec'd	
Dept	26 CLK

0327-0001



Exhibit 31

CLOSED SESSION REPORT ☒ CITY OF SAN DIEGO ☐ OTHER (See below)

TITLE Labor negotiations - meet and confer
labor negotiations DCAs Rivo/Marshall

DATE OF CLOSED SESSION: 4/30, 2002

NOT A PUBLIC RECORD

until the information in this box is completed,
signed by an authorized representative of the
City Attorney's Office and stamped in the space below

☐ **REAL PROPERTY NEGOTIATIONS** G.C. § 54956.8

☐ Ongoing/Status Report

☐ Final Approval of Agreement (D)

Substance of Agreement: _____

☐ Final approval dependent on other party

☐ **LITIGATION** G.C. § 54956.9

☐ (a) Pending ☐ (b)(1) Significant Exposure ☐ (b)(2) Authorizing Session ☐ (c) Initiating

☐ Defend Litigation (D)

☐ Status Report

☐ Seek Appellate Review (D)

☐ Refrain from Seeking Appellate Review (D)

☐ Amicus Participation

☐ Other (see below)

☐ Settlement Offer To Be Conveyed

☐ Acceptance of Signed Settlement Offer (D)

☐ Initiate Litigation or Intervene (D)

☐ Contingent Acceptance of Signed Offer

☐ Non-Disclosure of Litigation Recommended (check if yes): ☐ See Report

☐ Interfere with service of process ☐ Impair ability to settle

Date Litigation Concluded: _____, 200

By: _____

Title: _____

(TITLE OF OFFICE)

☐ **CLAIMS DISPOSITION** G.C. § 54956.95

☐ Offer Made

☐ Offer Accepted

☐ See Report

☐ **DECISION ON EMPLOYMENT STATUS** G.C. § 54957

☐ Appoint (D)

☐ Employ (D)

☐ Accept Resignation (D)

☐ Discipline (D)

☐ Dismissal or Nonrenewal (disclose after exhaustion of administrative remedies) ☐ Performance Evaluation

Title: _____

Change in Compensation: _____

☒ **LABOR NEGOTIATIONS** G.C. § 54957.6

☒ Ongoing/Status Report

☐ Final Approval of Agreement (D) Other Party to Negotiation: _____

Item Approved: _____

ATTENDEES:

☒ City Mgr ☒ Asst City Mgr ☒ Sr Dep City Mgr (Loveland)

☒ City Atty ☒ Exec Asst City Atty ☒ Asst City Atty (Girard)

☒ City Auditor

☒ Other: Bruce Herring, Pat Frazier, Dan Kelley, Stan Griffith, _____

☐ **PUBLIC SECURITY THREAT** G.C. § 54957

Terri Webster, Rich Snapper, Elmer Heap, Mike Rivo, _____

Cathy Lexin, Mike McGhee, Sharon Marshall _____

☐ **VOTE**

☒ **NO VOTE NECESSARY**

COMMENTS: _____

Name	Yea	No	Absent
District 1			
District 2			
District 3			
District 4			
District 5			
District 6			
District 7			
District 8			
Mayor			
Voting Tally			

APPROVED: _____

NOTE: (D) DISCLOSE FOLLOWING CLOSED SESSION

EXHIBIT # 56

Meet & Confer 4/30

Presidential leave

A) MEA & PBA only -

Ap. recommendations - base retirement on
high 1 yr. union salary.
9-0-0

B) Prospective union mem. -
Trail 1 wk.

C) 145 -

Trail 1 wk.

Exhibit 32

City of San Diego

Meet & Confer 2002

Closed Session

April 29, 2002

1

Meet & Confer 2002 Agenda

1. Status of Negotiations (Information)
2. Management Team Recommendations (Action)
 - Special Salary Adjustments
 - Other/Miscellaneous Items
 - Retirement Issues
3. Civil Service Commission Recommendations: Report back on three Classes (Information)
4. SB 402 - Binding Arbitration (Information)
5. Next Steps (Information)

2

Meet & Confer 2002

Union Presidential Leave & Retirement Benefits Current Status of Union Presidents

Union	President	Status
POA	Bill Farrar	Full-time Union president Unpaid Leave from City.
Local 145	Ron Saathoff	Full-time employee. Release time for Union activities.
MEA	Judie Italiano	Full-time Union president. Unpaid Leave from City.
Local 127	Tony Padilla	Full-time employee. Release time for Union activities.

47

Meet & Confer 2002

Union/President	Employment Status	Retirement Issue
MEA Judie Italiano	- Leave of Absence 14 years - Payroll Specialist - Full-time MEA President & General Manager	- Purchased past service - Contributes to Retirement on Union Salary (\$102,128) - Retirement formula = high one year on union salary *
POA Bill Farrar	- Leave of Absence 2 years - Police Officer II - Full time POA President	- All Service Paid - Contributes to Retirement on union salary (\$82,300) - Retirement formula = high one year on union salary *

* Approximate un-funded Liability Judie Italiano \$145,000
Bill Farrar \$56,000

48



Meet & Confer 2002

Union Presidential Leave & Retirement Benefits Issue 1 – Current Union Presidents

Management Team Recommendation:

- Authorize inclusion of union salary in high one-year calculation; establish a maximum retirement high one-year salary at level equal to City Labor Relations Manager (approx. \$108k)

49



Meet & Confer 2002

Union Presidential Leave & Retirement Benefits Issue 2: Prospective Union Presidents

Management Team Recommendations:

- City to allow each union to have a full-time City-paid union President
- Union President/employee to be paid for normal work period at current level and receive current benefits with no overtime
- Union President to be entitled to retirement benefits consistent with his/her classification and level of compensation
- Union may compensate the union president for services to the union outside the normal work period. Such compensation shall not affect or be a part of City compensation, nor affect or add to retirement benefits
- Subject to final review and clearance by City Attorney

Estimated Cost: \$170,000 annually for two active presidents

50

Meet & Confer 2002

Union Presidential Leave & Retirement Benefits Issue 3 – Requested Presidential Leave for Local 145

Union/President	Employment Status	Retirement Issue
Local 145 Ron Saathoff	- Full-time City employee - Fire Captain	- Use City salary and union salary for high one year calculation (approx. \$80k + \$40k = \$120k) - No retirement contribution made on union salary*

*Approximate Unfunded Liability \$100,000

51

Meet & Confer 2002

Union Presidential Leave & Retirement Benefits Issue 3 – Requested Presidential Leave for Local 145

Management Team Recommendation:

• Treat current President under Issue 2; do not authorize inclusion of union salary in high one-year calculation.

Alternative:

Treat current President under Issue 1, combine City salary and Union salary; cap retirement high one-year salary at level equal to City Labor Relations Manager (approx. \$108k)

52

Exhibit 33



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760-931-9700

mjc@procopio.com**Areas of Practice**

- [Corporate & Securities](#)
- [Tax](#)

Mr. Changaris is the head of the firm's tax team. His practice emphasizes corporate and partnership merger and acquisition transactions for public and private companies; negotiation of joint venture relationships involving foreign and domestic corporations, partnerships and limited liability companies; tax-exempt financing transactions and other corporate and business transactions; Federal, state, local and international tax planning and structuring for corporations, partnerships, REIT's and tax-exempt organizations.

**Background**

Michael J. Changaris was born in Yuba City, California in 1954. He received his B.A. in economics from the University of California at Berkeley in 1976 and his law degree from the University of California at Hastings in 1979. Mr. Changaris also received his LL.M. in taxation from New York University in 1981. From 1981 to 1982, Mr. Changaris served as an attorney advisor to the United States Tax Court. Prior to joining the Firm, Mr. Changaris was a partner at Sheppard, Mullin, Richter & Hampton, LLP, where he served as the managing partner for that firm's San Diego office during the period 1996-1999. Mr. Changaris has been a member of the State Board of Equalization Tax Advisory Group, a member and chairman of the California State Treasurer's Housing Finance Advisory Committee and a member of the board of directors of the University of California at San Diego Cancer Center Research Foundation. Throughout Mr. Changaris' legal career, he has been an active speaker and frequent lecturer on business and tax planning techniques to professionals as well as to the general public. He currently is a member of the California Bar Association's Business and Tax Sections, and is a member and past Chairman of the San Diego County Bar Association's Tax Section.

Representative Matters

- Represented manufacturing, real estate, technology and Internet companies in a large variety of both tax-deferred, and taxable, stock and asset acquisitions and dispositions
- Represented health care facilities in obtaining more than \$100 million of tax-exempt financing
- Represented real estate owners and developers in negotiating a variety of joint venture structures for the ownership and operation of commercial, industrial and retail real properties
- Advised real estate partnerships on structuring tax-free transfers of real estate assets to publicly-traded Real Estate Investment Trusts on a tax-deferred basis through "UPREIT" structures

- Represented numerous real estate owners in structuring exchanges of real estate assets on a tax-deferred basis, deploying both "straight" and "reverse" exchange techniques (and including the creation of tenancy-in-common relationships to facilitate exchanges)
- Successfully represented corporations and individuals before the Internal Revenue Service, State Board of Equalization and the Franchise Tax Board in tax controversies ranging from \$3 million to \$30 million

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- [Realizing the Maximum Value of Your Business](#), March 2005

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Exhibit 34

May 13, 2002

**CONFIDENTIAL/SUBJECT TO
ATTORNEY-CLIENT PRIVILEGE**

Leslie E. Devaney, Esq.
Executive Assistant City Attorney
1200 Third Avenue, Suite 1620
San Diego, CA 92107

Re: Income Tax Issues Arising When City of San Diego ("City") Employees Become
Full-Time Union Representatives

Dear Ms. Devaney:

As described in more detail below, you have advised that the City is considering a proposal which will result in certain City employees becoming full-time union ("Union") representatives for a period of time, and during such period they will not be performing City-related services. I have referred to these individuals below as "Union Presidents." You have asked for our advice regarding the Federal income tax implications if these employees continue to draw their salaries from the City, and not the Unions. Our advice in this regard is provided below.

Issues

This letter addresses two specific issues: (i) is it permissible under Federal income tax laws for the City to withhold taxes from the wages paid to the Union Presidents, and (ii) if withholding is permissible, must the City also pay, and withhold from the wages paid, so-called employment taxes.

Conclusion/Recommendation

Based on the facts and assumptions described below, there is a substantial risk that the Service would conclude that, for Federal income tax purposes, while City employees are acting at a Union Presidents, they are "employees" of the Unions. In that event, it is not only permissible, but required under Federal income tax laws that the City withhold taxes from wages paid to Union Presidents, and the taxes to be withheld would include so-called "employment taxes." (As described below, employment taxes also include an "employer" component, meaning, in addition

Leslie E. Devaney, Esq.
May 13, 2002
Page 2

to the employment taxes owed by, and withheld from, the wages paid to the Union Presidents, a separate employment tax also is imposed on the "employer.")

In the event that, in order to facilitate current negotiations with the Unions for new labor relations agreements, the City is willing to take a more aggressive tax position to the effect that the Union Presidents continue to be City employees for Federal income tax purposes, the City should require that the Unions indemnify and hold the City harmless from all taxes, interest and penalties arising from a contrary determination by the Service, together with all other costs and expenses related thereto.

General Background

City employees generally are represented by four separate unions (the "Unions"). City and Union representatives have proposed an arrangement pursuant to which, from time to time, a City employee may accept appointment as the "President" of a Union (these employees are referred to as "Union Presidents"). In that capacity, they would devote their full-time efforts on behalf of Union activities. The term of office may be for a period of years. While holding the Union position, the Union Presidents would not perform any services for and would not report to or otherwise be under the supervision and control of the City. All services will be performed out of Union offices with the support of Union staff and property; except as described below, the City will not be involved in the performance of services by Union Presidents. Although the services will be provided solely at the direction of and under the supervision of the Union, each Union President will remain on the payroll of the City, will be paid a salary by the City (and not the Union), will be maintained as a City employee in City records and will continue to be entitled to employment benefits otherwise available to City employees. *True*

The City believes this arrangement will be particularly beneficial in facilitating employee relations. Specifically, by making available to City employees the opportunity to take a paid leave of absence for the express purpose of acting as the representative of the rest of the employees (through the Union), it is anticipated that Union/City relationships will be improved, that City employee productivity will be increased and that City services will be improved/enhanced.

This proposed arrangement has raised concerns that (among other things), if the Union Presidents are not treated as City "employees" for Federal income tax purposes, it may not be proper for the City to withhold taxes from their salary, but if it is proper, the City may be required to withhold (and remit to the Internal Revenue Service ("Service")) "employment taxes," that otherwise are not required to be withheld from City employees, as well as income taxes.

Legal Framework

The Internal Revenue Code of 1986, as amended (the "Code"), imposes so-called "employment taxes" on, and an obligation to withhold employment and income taxes from, "wages" paid to employees. Code Sections 3101, 3301 and 3402. Certain of these employment taxes are imposed on just the employer (Code Section 3301 -- created as part of the Federal Unemployment Tax Act, or "FUTA"), while others are imposed at both the employee and employer levels (Code Sections 3101 and 3111 -- created as part of the Federal Insurance Contributions Act, or "FICA").

Generally speaking "wages" means all remuneration paid for employment (Code Sections 3121(a), 3306(b) and 3401(a)), and "employment" means services performed by an "employee" for the person employing him (Code Sections 3121(b) and 3306(c)).* For employment tax and withholding purposes, the usual common law rules apply in determining whether the employee-employer relationship exists, and if so, who is the employer (Treasury Regulations Sections 31.3121(d)-1; 31.3306(i)-1; and 31.3401(c)-1. Specifically, the Treasury Regulations provide that,

"generally, the relationship of employer and employee exists when the person for whom the services are performed has the right to control and direct the individual who performs the services not only as to the result to be accomplished by the work, but also as to the details and means by which that result is accomplished. That is, an employee is subject to the will and control of the employer not only as to what shall be done but as to how it shall be done. In this connection, it is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if he or she has the right to do so. The right to discharge is also an important factor indicating that the person possessing that right is the employer. Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools and the furnishing of a place to work to the individual who performs the services."

The Treasury Regulations are clear that the designation or description of the relationship by the parties as anything other than that of employer and employee is immaterial -- if the relationship exists, mere labels will not change that fact. Once the employee-employer relationship is established, the Treasury Regulations also are clear that the employer is the person for whom the services are performed.

The obligation to withhold employment taxes and income taxes is imposed not only on the employer, but if a person other than the employer pays the wages directly to

* Services by employees of state and political subdivisions thereof, such as the City of San Diego, generally are excepted from the definition of employment, and assuming appropriate elections are made, generally are not subject to employment taxes (Code Sections 3121(b)(7); 3306(c)(7); but see, Code Section 3121(u)).

Leslie E. Devaney, Esq.
May 13, 2002
Page 4

an employee, then such other person is responsible to withhold and remit such taxes (Code Sections 3401(d)(1) and 3505; see also, Otte v. U.S., 419 U.S. 43 (1974)). But, the determination of whether employment taxes are to be imposed on wages paid, or whether such wages are exempt from those taxes (for example, with respect to wages paid to City employees) is determined not by the status of the payer, but instead by that of the person for whom the services are performed, i.e., the employer (Rev. Rul. 56-605, 1956-2 C.B. 696 (Service held that "In determining who is the employer ... the governing factor is not who furnishes the funds to pay the worker, but who actually has the right to supervise and control the individual in the performance of his services and whether that right is being exercised as principal"))).

For example, in Private Letter Ruling 9252005 (September 21, 1992), a public school teacher (otherwise exempt from employment taxes as an employee of a state, political subdivision or instrumentality thereof) took time off from her school teaching duties in order to act as a full-time representative of an employee organization (a union). The employee was on an unpaid leave of absence from the school, but still was credited with services under the state's retirement system, and was required to make contributions into the system. Nevertheless, recognizing that the only person the employee was performing services for was the union, the Service held the union was the employer, and wages paid to her were not exempt from employment taxes. See also, Rev. Rul. 68-539 1968-2 C.B. 422 (when company employees take time away from work to become union representatives, the union is the employer with respect to services performed in that capacity).

In Revenue Ruling 68-240 1968-1 C.B. 429, an individual was engaged by an architect to assist with a construction project for a city. Even though the city paid the salary of the individual, the Service concluded that the individual was an employee of the architect, not the city. The status of the payer was not material. Accordingly, employment taxes applied.

And, in Revenue Ruling 57-22 1957-1 C.B. 318, a state and the Federal Department of the Interior together undertook a water resources project. Although certain of the state employees continued to be carried on the state's payroll, because the project was under the control and supervision of the Department of the Interior, the state personnel assigned to the project were determined to be employees of the Department of the Interior, not the state. Again, the status of the payer was not material.

In Private Letter Ruling No. 8603004 (September 20, 1985), an employee of a public school had authority to hire "helpers." The employee (not the public school) paid the helpers wages, and the question was whether the helpers were employees of the

Leslie E. Devaney, Esq.

May 13, 2002

Page 5

individual, or the public school. After concluding the helpers were employees of the school, the Service held the wages were not subject to employment taxes (since they were employed by a state political subdivision or instrumentality). Again, the point that is important here is that the status of the wage payer was not determinative. Rather, the crucial issue was whose employee were the helpers.

Analysis

Apart from the general description of the relationship the City employees will have with the City and the Unions once they become Union Presidents (see "General Background"), I am not aware of the specific duties to be performed for the Unions or the precise structure of their working relationships. However, based on the facts described above, there is a significant risk that under the common law rules applicable in determining whether an employee-employer relationship exists, and if so, who is the employer, the Unions will be treated as the employers of the Union Presidents for employment tax purposes. As the above-discussed rulings reflect, the simple fact that the Union Presidents remain on the payroll of the City will not impact that conclusion.

In that event, the wages paid to the Union Presidents will be subject to employment taxes. Because the City will continue to pay the wages due to the Union Presidents, it will be required to pay, and withhold, appropriate employment (both employee and employer portions) and income taxes from their wages, and remit them to the Service (Code Sections 3402(d)(i) and 3505; Otte v. U.S., *supra*).

Conversely, the City could maintain that, in light of the significant benefits it derives by allowing certain of its employees to act for a period of time as employee representatives of the other City employees (through the Unions), these employees are, in effect, performing services for the City. Based on that view, the Union Presidents would retain their status as City employees for Federal income tax purposes, and no employment taxes would be due or otherwise subject to a withholding.

The conservative route in this instance would be to conclude that the Union Presidents were Union employees for Federal income tax purposes, and pay/withhold employment taxes accordingly. Conversely, in order to facilitate current negotiations with the Unions for new City/Union labor relations agreements, the City could take a more aggressive tax position, and maintain that the Union Presidents continue to be City employees, in which case wages paid to Union Presidents would not be subject to employment tax withholding. In that event, it is recommended that the Unions be required to "bear the risk" that the Service later conclude that the Union Presidents are employees of the Union, and the wages paid for Union services are subject to employment taxes, by agreeing to indemnify and hold the City harmless from such

Leslie E. Devaney, Esq.

May 13, 2002

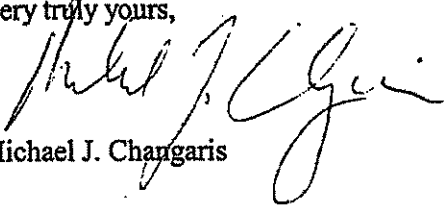
Page 6

risks. (The "risks" in this instance would include not only the obligation to pay the employment taxes determined to be due (both the employee and employer portions), but also interest on the late payment of those taxes, and penalties for failure to timely file, pay, withhold and remit the taxes to the Service.)*

After you review this letter, please call me with any questions or comments you may have.

Best regards.

Very truly yours,


Michael J. Changaris

MJC/kn

* The exemptions to employment taxes provided by Code Sections 3121(b)(7) and 3306(c)(7) apply to the services performed by any employee of a state, political subdivision thereof, or instrumentality of either. The fact that the City many have had an obligation to pay, and withhold, employment taxes on wages paid to Union Presidents, and failed to do so, will not change the fact that other City employees are employed by a state political subdivision, entitled to the exemptions provided by those Code Sections.

Exhibit 35

WHILE YOU WERE OUT

FOR _____ DATE 4/30/02 TIME 2:08 ☐ AM ☐ PM

M Mike Changaris

OF Tax attorney

PHONE ☐ FAX 515-3252 ☐ PAGER ☐ MOBILE

AREA CODE _____ NUMBER _____ EXTENSION _____

MESSAGE Laslie Newberry wants you to
call him directly re Union
President being paid by City
and tax implications.

OPERATOR _____

☐ URGENT!
☐ RETURNED YOUR CALL
☐ PLEASE CALL BACK
☐ WILL CALL BACK
☐ PHONED
☐ WANTS TO SEE YOU
☐ WAS IN

23-376 200 SETS 23-176 400 SETS 23-177 600 SETS CARBONLESS

He is expecting your call

Exhibit 36

USED SESSION REPORT ☒ CITY OF SAN DIEGO ☐ OTHER (See below)

NOT A PUBLIC RECORD
until the information in this box is completed,
signed by an authorized representative of the
City Attorney's Office and stamped in the space below

TITLE Labor negotiations - meet and confer
labor negotiations DCA Rivo

DATE OF CLOSED SESSION: 5/6, 2002

☐ REAL PROPERTY NEGOTIATIONS G.C. § 54956.1

☐ Ongoing/Status Report

☐ Final Approval of Agreement (D)

Substance of Agreement: _____

☐ Final approval dependent on other party

☐ LITIGATION G.C. § 54956.9

☐ (a) Pending ☐ (b)(1) Significant Exposure ☐ (b)(2) Authorizing Session ☐ (c) Initiating

☐ Defect Litigation (D)

☐ Seek Appellate Review (D)

☐ Amicus Participation

☐ Settlement Offer To Be Conveyed

☐ Initiate Litigation or Intervene (D)

☐ Non-Disclosure of Litigation Recommended (check if yes): ☐ See Report

☐ Interfere with service of process ☐ Impair ability to settle

☐ Status Report

☐ Refrain from Seeking Appellate Review (D)

☐ Other (see below)

☐ Acceptance of Signed Settlement Offer (D)

☐ Contingent Acceptance of Signed Offer

☐ CLAIMS DISPOSITION G.C. § 54956.95

☐ Offer Made

☐ Offer Accepted

☐ See Report

☐ DECISION ON EMPLOYMENT STATUS G.C. § 54957

☐ Appoint (D)

☐ Employ (D)

☐ Accept Resignation (D)

☐ Discipline (D)

☐ Dismissal or Nonrenewal (disclose after exhaustion of administrative remedies) ☐ Performance Evaluation

Title: _____

Change in Compensation: _____

☒ LABOR NEGOTIATIONS G.C. § 54957.6

☒ Ongoing/Status Report

☐ Final Approval of Agreement (D) Other Party in Negotiation: _____

Item Approved: _____

☐ PUBLIC SECURITY THREAT G.C. § 54957

ATTENDEES:

☒ City Mgr ☒ Asst City Mgr ☐ Sr Dep City Mgr (Loveland)

☒ City Atty ☒ Exec Asst City Atty ☒ Asst City Atty (Girard)

☒ City Auditor

☒ Other: Mike Rivo, Elmer Heap, Sharon Marshall, Cathy Lexin,

Bruce Henning

☒ VOTE

☐ NO-VOTE NECESSARY

COMMENTS: _____

Name	Yes	No	Absent
District 1 M	X		
District 2	X		
District 3	X		
District 4	X		
District 5	X		
District 6	X		
District 7 S	X		
District 8	X		
Mayor	X		
Voting Tally	9	0	0

APPROVED: _____

NOTE: (D) DISCLOSE FOLLOWING CLOSED SESSION

EXHIBIT 113
WIT. Girard
DATE 5/17/06
Kramm & Associates, Inc.

L:\DEVANEY\CLSDSESS\Meet_Confer\Spec\060602\Jrw

113.1

006098

CA0038

0113-0001





SAN DIEGO CITY ATTORNEY
CASEY GWINN

LESLIE E. DEVANEY
Executive Assistant City Attorney
(619) 236-6220 • (619) 236-7215 (FAX)

MEMO

Overall Economic Proposal

Slide 17

CD1 memo Hqr's Recommendation
007 and

480 '04 plus } 9-0
480 '05 }

MEA
Change salary min '03 to level in '02 Y- N-

~~MEMO~~

* Presidential Leave

CD 7 - MEA - Hqr's Recommendation
9-0

MEA
SSA exact (also Hqr) 9-0
127 — 9-0
1145 9-0



006099

113.2

CA0039

0113-0002



MEA

190 12/02

290 7/02

290 6/03

290 12/03

390 12/04

290 4/05

113.3

006100

CA0040

0113-0003



Meet & Confer 2002

Status of Negotiations

- POA
- Local 145
- MEA
- Local 127

3

Status of Negotiations Bargaining Authority

April 16

- Authorized removal of MVLF contingency
- Authorized 3-year economic package
- Conditioned all retirement enhancement on removal of the "trigger" in "Manager's Proposal" regarding CERS funding ratio
 - Retiree health
 - Increase in employee "pickups"
 - Increase in General Member formula (2.5% at 55)

April 22

- Authorized SSA's and other miscellaneous items all within the April 16 total economic authority
- Added 3 SSA's and requested more info on 3 others

4

2

113.5

006102

CA0042

0113-0004



Meet & Confer 2002

Retirement Issues:

- *Presidential Leave and Retirement Benefits*
- Funding Ratio Impact on City Contribution
- 2.5% at 55 General Member Formula
- Increases in Employee Pick-ups
- Retiree Health Insurance and Funding

35

Meet & Confer 2002

Union Presidential Leave & Retirement Benefits Current Status of Union Presidents

Union	President	Status
POA	Bill Farrar	Full-time Union president Unpaid Leave from City.
Local 145	Ron Saathoff	Full-time employee. Release time for Union activities.
MEA	Judie Italiano	Full-time Union president. Unpaid Leave from City.
Local 127	Tony Padilla	Full-time employee. Release time for Union activities.

36

18

113.21 006118


CA0058

0113-0020



Meet & Confer 2002		
Union Presidential Leave & Retirement Benefits		
Current Status of Union Presidents		
Union/President	Employment Status	Retirement Issue
MEA Judie Italiano	- Leave of Absence 14 years - Payroll Specialist - Full-time MEA President & General Manager	- Purchased past service - Contributed to Retirement on Union Salary (\$102,128) - Expects Retirement formula = high one year on union salary *
POA Bill Farrar	- Leave of Absence 2 years - Police Officer II - Full time POA President	- All Service Paid - Contributed to Retirement on union salary (\$82,300) - Expects Retirement formula = high one year on union salary *
* Approximate un-funded Liability		Judie Italiano \$145,000 Bill Farrar \$56,000

37



Meet & Confer 2002

Union Presidential Leave & Retirement Benefits

Issue 1 – Current Union Presidents

Management Team Recommendation:

1. Authorize inclusion of union salary in high on year calculation; establish a maximum retirement high one-year salary at level equal to City Labor Relations Manager (approximately \$108,000 currently)

38

19


113-22 006119

CA0059

DET ATTY 3 23 05

0113-0021






Meet & Confer 2002
Union Presidential Leave & Retirement Benefits
Issue 2: Current Local 145 President
Management Team Recommendation:

1. Allow the current Local 145 President to begin a paid Presidential Leave under the terms described in Issue 2 effective July 1, 2002
2. Allow contributions on union salary in addition to the City's contributions on Captain's salary, to a max of \$108,000 for the one year period prior to July 1, 2002 to establish a high one year

39



Meet & Confer 2002
Union Presidential Leave & Retirement Benefits
Issue 3: Prospective Union Presidents
Management Team Recommendations:

1. Authorize full-time City-paid union Presidential Leave for each of the 4 unions beginning July 1, 2002
2. Union President/employee to be paid for normal work period at the salary of their current class when become President; receive regular benefits for the class; with no overtime
3. Retirement benefits consistent with his/her classification and level of compensation
4. Union may compensate the union president for services to the union outside the normal work period. Such compensation shall not affect or be a part of City compensation, nor affect or add to retirement benefits

40


20

113.23 006120

CA0060

0113-0022





Meet & Confer 2002

Union Presidential Leave & Retirement Benefits


Issue 2: Prospective Union Presidents

Management Team Recommendations:

5. Current MEA, POA, and Local 145 Presidents may also utilize paid President Status under these terms effective 7/1/02*
6. Subject to appropriate legal conditions to be established by City Attorney (e.g. finding of public purpose by Council, city time for representative duties, not internal union business, Union indemnifies city for conduct in violation of city policy/rules

*Estimated Cost to Budget: \$378,000 annually

41



Meet & Confer 2002

Agenda

1. Status of Negotiations (Information)
2. Management Team Recommendations (Action)
 - Overall Economic Proposal
 - Special Salary Adjustments
 - Other/Miscellaneous Items
 - Retirement Issues
3. *Next Steps* (Information)

42



Exhibit 37

ED
6/24/02 Jerr

**ATTORNEY TO CLIENT
CORRESPONDENCE**

FOR CONFIDENTIAL USE ONLY

**Office of
The City Attorney
City of San Diego**

MEMORANDUM

533-5800

DATE: June 17, 2002
TO: Ed Ryan, Auditor and Comptroller, MS 9B
FROM: Casey Gwinn, City Attorney and
Elmer L. Heap, Jr., Head Deputy City Attorney
SUBJECT: Presidential Leave Income Tax Issues

This memorandum discusses the potential tax implications to the City related to the Presidential Leave proposal which was part of the negotiated agreements with Local 145, the International Association of Fire Fighters, AFL-CIO (Fire), the Municipal Employees Association (MEA), and AFSCME, Local 127 (Local 127). The proposal was also included in the offer that was not accepted by the Police Officers' Association. A copy of the latest version of the Presidential Leave proposal is attached.¹

Under the proposal, union presidents will remain full-time City employees and will receive a paycheck from the City with the same deductions as other City employees. You have asked our office to address any tax implications that might arise as a consequence of implementing the proposal. In response to your request, our Office sought a legal opinion from outside counsel. A copy of that opinion is attached.

The law firm opines that the Internal Revenue Service (IRS) would most likely conclude that the City would be required to pay, and withhold, appropriate employment and income taxes from the wages paid by the City to the union presidents. This opinion is based on IRS rulings that would

¹It was agreed by Fire, MEA, and Local 127 that the specific language of the Presidential Leave article in each respective MOU would be drafted at a later date.

Ed Ryan
June 17, 2002
Page 2

treat the union presidents as employees of the unions, not of the City. Practically speaking, the only difference in the withholding would be with respect to FICA (Federal Insurance Contributions Act), which is not withheld from City employees because the City does not participate in the Social Security system.

The opinion provides an alternative that the City could maintain, in light of the significant benefits it derives, that these union presidents are in effect performing services for the City. As such, the union presidents would retain their status as City employees for Federal income tax purposes, and therefore, the City could treat the union presidents the same as all other City employees and not withhold federal taxes pursuant to FICA.

Our Office would include a finding of a public purpose to accomplish the above in the resolution adopting the respective Memoranda of Understanding with Fire, MEA and Local 145. This public purpose provision would not only assist the City in its argument that FICA taxes do not need to be withheld, but also eliminates any argument that the City is making a gift of public funds by paying Union Presidents' salaries. It is our Office's position with the finding of public purpose coupled with indemnity language, that there are no legal consequences to the City and more specifically to the Auditor and Comptroller for not withholding federal taxes pursuant to FICA.

Lastly, the opinion recommended that if the City took the latter position, it should require that the unions indemnify and hold the City harmless from any liabilities arising from a contrary determination by the IRS. A policy decision was made by the Mayor and City Council to follow the position stated in the opinion to not take out federal taxes pursuant to FICA and to request and receive protective indemnity language from the respective Unions. The indemnity provision is included in paragraph six of the attached draft Presidential Leave proposal. This indemnity language will provide the Auditor and Comptroller, Personnel Director and the City absolute protection from any potential civil liability. There is no criminal liability exposure for not withholding federal taxes pursuant to FICA. Also, as you know the Mayor and City Council, as well as the Unions, agreed to indemnify the Auditor and Comptroller and Personnel Director.

Please contact me or Head Deputy City Attorney Elmer Heap if you have any further questions or concerns regarding this matter.



Casey Gwinn

MR:ms
Attachments

Exhibit 38

From: Mike McGhee
 To: Dan Kelley; Ed Ryan; Terri Webster
 Date: Tue, May 21, 2002 9:42 AM
 Subject: Re: Meet and Confer Update - Changes for FY 2003 / FY 2004 / FY 2005

281

Dan shared with me your comments Terri. I assure you that Ron is well aware of the contingent nature of the benefits, after our repeated statements at the negotiations table regarding the benefits being contingent upon your noted approvals. Cathy was very specific on those points at every discussion. The various proposals are all specific to the necessary approvals and available funding from the reserves, although this is not stated in this "highlights" to the departments.

>>> Terri Webster 5/21/02 9:22:50 AM >>>

Dan
 The Local 145 write up you sent out did not state that their increased offset was contingent on the Board laxing the triggerI thought ALL retirement improvements (including the presidential leave (?)) were contingent on the trigger.... especially need Ron behind releasing the trigger since he runs the show at CERS....

>>> Dan Kelley 05/21/02 08:27AM >>>

We are starting the Retirement Offsets with the first full pay period in the Fiscal Year.

We are going to talk to you on Presidential Leave and "Grandparenting" of 2.5% @ 55.

We are scheduling an implementation with your staff, Personnel and the Attorney's for this week.

Further discussion required on Direct Deposit and "Modified Agency Shop".

Local 127 has until this Friday to let us know if they want the "Modified Agency Shop" and the Direct Deposit.

Dan

>>> Ed Ryan 5/20/02 5:50:51 PM >>>

Dan, the Bob's thought they heard one of your staff say the retirement pickup started in the first full pay period of July. This seems to say different. Which is it? Also, is this the language you are proposing for Presidential Leave? I thought that the Attorney, you and I were going to discuss that.

>>> Dan Kelley 5/20/2002 5:37:58 PM >>>

Please share this information with your Executive Management Teams only.

Dan Kelley
 Labor Relations Manager

CC: Bob Lawrence; Bob Wilson; Elmer Heap

EXHIBIT 281
 WIT. Kelley
 DATE 4/27/04
 Kramm & Associates, Inc.

0281-0001



Mail

Close

Previous Next

From: Mike McGhee
To: Ryan Ed Webster, Terri Kelley, Dan
Cc: Lawrence Bob, Wilson Bob, Heap Elmer
Date: 5/21/2002 9:42 AM
Subject: Re: Meet and Confer Update - Changes for FY 2003 / FY 2004 / FY 2005

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>>> Dan Kelley 5/20/2002 5:37:58 PM >>>

Please share this information with your Executive Management Teams only.

Dan Kelley
Labor Relations Manager

Exhibit 39

MEA'S COUNTERPROPOSAL TO CITY'S 4/26/02 OFFER

MEA's Negotiating Team has authorized the following counterproposal to the City's offer presented orally at our afternoon bargaining session on Friday, April 26, 2002.

General Statement of MEA's Position & Priorities

MEA's Negotiating Team remains united and unanimous in the position that no contract package will be recommended for ratification unless it contains GENERAL SALARY INCREASES EQUAL to the increases extended to police and fire employees for the same period. The Team accepts the "inequality" of different implementation dates for general salary increases *but will not accept inequality in the amount(s).*

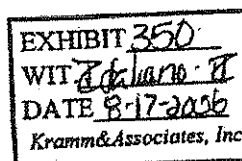
MEA's zealous dedication to this issue of PARITY is unchanged even in the face of the City's offer for an improved retirement formula for general members, which is a critical priority for MEA in these negotiations. The reason for this is simple. It took decades for MEA to overcome the past practice in this City of treating non-sworn employees as "second class citizens," who, year after year, received smaller general salary increases than police and fire employees despite the same economic pressures on them and their families and the same increasing costs to live in this City and region. MEA will not sacrifice this righteous objective of maintaining PARITY when, to do so, would have far-reaching consequences to MEA-represented employees now and in the future. MEA is unwavering in this position even if the critical objective of an improvement in the retirement formula for general members must be sacrificed in the process.

MEA's Negotiating Team, however, is mindful of the City's desire to reach a fair contract with *all* of its labor organizations. The Team recognizes that a proposed improvement in the general member retirement formula to 2 ½ % at age 55 might, at first blush, seem to justify a higher general salary increase for police and fire employees whose retirement formula will not be improved because it is already 3% at age 50.

The solution, however, is not to insist that MEA sacrifice its number one priority of PARITY. Such a stance will draw the proverbial line in the sand and make an impasse inevitable, thereby permanently damaging the relationship between the City's management and elected leadership and the nearly 4,000 employees MEA represents. Instead, the City has an appropriate and fair alternative means to put more money in every police and fire employee's paycheck by increasing the amount of the retirement offset the City pays for these police and fire employees. The higher the percentage offset "picked up" by the City, the less the employee pays as a retirement contribution and the bigger his/her paycheck becomes. Not only does this give the employee more spendable income, an increase in the "offset" for police and fire employees involves "retirement" and thus corresponds more closely to the City's proposal to improve the retirement formula for general members.

MEA's CounterProposal
April 27, 2002

1



350.1

MEA 4020

0350-0001



Critical Components of a Three-Year Agreement

MEA's Negotiating Team will discuss the terms of a *three-year agreement* in earnest provided each of the following general objectives can be met:

- (1) *Parity* with police and fire employees in the *amounts* of general salary increases in each of the three years, even if the implementation dates are more favorable to police and fire employees;
- (2) Improved Retirement Formula to 2 ½ % at age 55;
- (3) Improved Annual Leave in recognition of employees' efforts to "do more with less," and in order to boost morale in a tight budgetary environment; this leave program has not been improved in twenty (20) years since its implementation in 1982 when employees' sick leave benefit was eliminated in its entirety;
- (3) Annual improvements in the Flexible Benefits Plan dollar value;
- (4) Implementation of proposed Special Salary Adjustments and Voluntary Certification Pay, together with improvements/additions to Registration Pay and Special Assignment Pay, in satisfactory amounts over the life of a 3-year agreement, recognizing the budgetary constraints that dictate deferring the full impact of these proposals to the second and third years;
- (5) Satisfactory resolution of all remaining economic and non-economic proposals, including MEA's organizational security and representational issues.

Specific Terms of MEA's Counterproposal

MEA's Negotiating Team has authorized the following specific changes in its position in order to reach a satisfactory 3-year agreement with the above-stated general objectives. Unless otherwise noted, there is no change in MEA's position on an issue stated in its comprehensive proposal dated March 11, 2002, as supplemented thereafter.

- * MEA modifies its proposal from a one-year to a three-year agreement if the above-stated general objectives are achieved during the three years;
- * In the context of *parity* as explained above, MEA withdraws its proposal for an improved general member retirement formula reaching 3% at age 60, and accepts the City's proposal for a formula improvement, effective July 1, 2002,

MEA's CounterProposal
April 27, 2002



of 2 1/2 % at age 55 with no incremental increase until age 60 when a 1/2 % incremental increase will be added to reach 2.8% at age 65, if the implementation of the .53% increase in the employee contribution rate is deferred to an acceptable date in the first or subsequent years of a 3-year agreement when employees will receive a significant general salary increase. In this same context, MEA will defer its proposed increase in the retirement offset for MEA-represented employees until the third year of a new agreement.

- * With regard to this retirement formula improvement for general members, MEA accepts the contingency regarding approval by the Retirement Board of Administration on the terms stated, including the making of an appropriate downward adjustment in the funding level percentage "trigger" under the "corridor plan;" however, MEA does not agree with the proposed 70% "trigger;" believing instead that an adjustment to 80% from the current 82.3% is the maximum necessary to address the City's legitimate concerns. In view of these contingencies, however, and because this improvement in the general member retirement formula would be a material term of a 3-year agreement, a re-opener provision must be included in any agreement permitting MEA to reopen the agreement in the event the retirement formula improvement is not approved.
- * With regard to General Salary Increases in the context of a 3-year agreement, MEA restates its objective to achieve *parity* as stated above and in MEA's proposal of March 11, 2002. With this proviso repeated and restated, MEA modifies its proposal for a General Salary Increase in the first year of an agreement from 5.6 % to 3.6% which represents the actual increase in the cost of living for this urban area. MEA will accept less or insist on more in order to achieve *parity* with police and fire employees in the total amount(s) received during the first and each subsequent year of an agreement. On these precise same terms, MEA proposes that there be a general salary increase of 4.6% in the second year, and 5.6% in the third year of an agreement.
- * MEA will continue to discuss appropriate improvements in the Flexible Benefits Plan, as well as any proposed changes regarding Retiree Health, through the Labor Coalition. MEA, however, remains committed to identifying an appropriate compromise with the City which allows both active and retired employees to keep pace with the rising cost of health insurance premiums and allows the City to implement legitimate cost containment measures. [Please note that MEA is not interested in the changes to the LTD Plan currently being proposed by Risk Management which substantially diminish or adversely affect the value of the Plan to employees who need it

MEA's CounterProposal
April 27, 2002



often under desperate circumstances. Because any proposed LTD Plan changes affect *all* City employees, not just MEA-represented employees, MEA suggests that any further discussion of these issues be done as part of the on-going Labor Coalition bargaining.]

- * MEA urges the City to consider its detailed proposal of March 11, 2002, regarding improvements to the current Annual Leave program which, as noted above, remains unchanged for 20 years and represents an opportunity to boost employee morale in a tight budget environment. See Article 18, Annual Leave, pages 4-5 of 3/11/02 MEA Proposal.
- * MEA remains committed to the implementation of all proposed Special Salary Adjustments and Voluntary Certification Pay, as well as proposed improvements in or additions to Registration Pay and Special Assignment Pay, in satisfactory amounts and at appropriate intervals over the life of a 3-year agreement, recognizing the budgetary constraints that dictate deferring the full impact of these proposals to the second and third years. [MEA's request for cost information related to some of these proposals is still pending and the information has not yet been provided.]
- * MEA's position regarding organization security issues remains unchanged. The continuing viability of MEA's dental and vision plan exclusivity is critical in this regard, as is implementation of a new *modified* agency shop and maintenance of membership provision. A *modified* agency shop does not impose a "fair share" fee-payer status on current employees who have not voted to approve such an agency shop arrangement. Instead, a *modified* agency shop applies only to *new hires* who are told at the time of a job offer that the City maintains an modified agency shop whereby, if he or she accepts the job with the City, he/she must either become a member of MEA and pay dues or become a fee-payer in order to pay his/her fair share of the costs for MEA to represent him/her in bargaining and in other representational matters affecting his/her terms and conditions of employment. Under this approach, employees have a choice to decline the job with the City or to accept it under these circumstances. In this manner, the disproportionate burden on some employees to pay the entire cost of getting and keeping better wages, benefits and other improvements in their employment with the City, will end and "free loaders" will become a relic of by-gone days.
- * MEA accepts the City's 4/26 counterproposal regarding Bilingual Pay if the Arabic language is added, and MEA withdraws its proposal to add the Japanese language to the itemized list of languages.

MEA's CounterProposal
April 27, 2002

4

350.4
MEA 4023

0350-0004



- * MEA has no change in its proposals regarding the availability of a shift differential to library employees as stated in Article 9, Personnel Regulations, page 1 of MEA's 3/11/02 proposal.
- * MEA withdraws its proposal to increase the dollar amount available under Article 80, Training Reimbursement, if the language change to AR 70.30 (as written in MEA's 3/11/02 Proposal at page 20) is accepted.
- * MEA modifies its proposal regarding the amount of a meal allowance available to emergency crews called out to duty, as follows: The reimbursement amount available on presentation of a receipt shall not exceed \$15 for any meal, exclusive of tax and a 15% gratuity which shall be reimbursed at the actual amount.
- * MEA accepts the City's proposal regarding Article 47, Holidays, and we have agreement on that Article in full based on the City's 4/24/02 proposal.
- * MEA has no change in its proposals related to implementation of a 15% critical standby benefit for defined classifications in the Police Department crime laboratory (new Section E to Article 65, page 19 of 3/11/02 proposal), as well as an increase in the existing, non-time-dependent form of critical standby for Forensic Specialists from 5% to 15% on the terms proposed in Article 21, Section 3, new subsection R of 3/11/02 proposal.
- * MEA accepts the City's proposal regarding Article 53, Transportation Incentives, and MEA withdraws its proposal for additional improvements to that Article.
- * We have agreement regarding additions to Article 87, Performance Management Program.
- * Issues related to Uniform Allowances, Uniform Reimbursements and Appendix B remain pending. Moreover, in the context of a 3-year agreement, a re-opener mechanism for legitimate future adjustments in the second and third years of a contract must be implemented.
- * MEA withdraws its proposal to change Article 89, Military Leave to reflect the commitments made in Council's recent Ordinance. MEA believes that a memorialization of these commitments in its MOU is unnecessary in that this Council and Mayor are as committed as MEA to the continuation of benefits for those fine men and women who are currently absent from City service in order to serve our country in Operation Enduring Freedom.

MEA's CounterProposal
April 27, 2002

3505

MEA 4024

0350-0005



- * While MEA believes that a two-cent upward adjustment in the mileage reimbursement rates for "C" and "D" mileage would be justified on the basis of its review and analysis of AAA data for 2001 as compared with the 1999 baseline used to establish the current rates, MEA's Negotiating Team is willing to forego any increase in FY03 in the context of achieving other more critical economic gains for all employees, and in the context of the City's agreement to the "placard" proposal stated as a new Section G to Article 38, Transportation Programs at page 16 of MEA's 3/11/02 proposal. However, a re-opener mechanism for legitimate future adjustments in the mileage reimbursements rates in the second and third years of a contract must be implemented.
- * We have an agreement regarding Article 20, Workplace Safety.
- * MEA has no change in its position regarding improvements/clarifications to MOU language related to representational issues, but remains convinced that further dialogue will lead to appropriate compromise and resolution of these important issues. See MEA's proposals related to Articles 5, 8, 9, 10 and 37.
- * MEA remains committed to attaining the availability of alternate work schedules for all non-sworn MEA-represented employees in the Police Department in order to eliminate the inequity in this regard between sworn and non-sworn personnel working side-by-side.
- * Lifeguard shift and vacation selection policies remain under discussion. MEA has no change in its proposal regarding clarifying language added to Section VII of Article 23, Lifeguard Services, related to "preservation of work."
- * MEA awaits the City's response to its proposed addition to Article 72, Telecommuting, clarifying that management shall not automatically disqualify an employee who works an alternate work schedule from participation in the telecommuting program.
- * MEA will continue to discuss and consider the City's proposals regarding MOU changes in the spirit of compromise and in an effort to reach a satisfactory 3-year agreement.



Exhibit 40



HOTSHEET



July 1, 2002

EXHIBIT 357
WIT: *Stallone*
DATE *8-17-06*
Kramm & Associates, Inc.

UPDATE: Members Ratify Contract Contingent on Retirement Board Decision

Ballots were counted Friday June 28th at the MEA office by retirees. About 900 members cast their vote on the proposed contract improvements with 96% of them voting yes!

This vote will be valid **only** if the 3-year contract includes the retirement benefit improvements slated for July 1, 2002. **The availability of these benefit improvements depends on a favorable vote of the Retirement Board of Trustees on the City's request for a payment plan, which would lower the current "trigger" from 82.3% to 75%.**

The Retirement Board of Trustees will meet July 11th at 9:00am at 401 B Street, Suite 400. Please attend this meeting - we need your support.

MEA 5608

*San Diego Municipal Employees Association
(619) 264-6632 FAX (619) 264-0405 www.sdmea.org*

0357-0001



Exhibit 41

HOTSHEET

July 12, 2002

NEWS FLASH!!

Thursday July 11th the San Diego Retirement Board of Trustees approved the City Manager's request to allow the City to ramp up their contributions over the next 7 years. This will give the City some relief in an already tight budget year and it will allow them to work with the Retirement Board in preparing for increases in employer contributions.

This arrangement will be voted on in closed session by the City Council but City Manager Mike Uberuaga has informed MEA that the "motion approved by the Retirement Board was within the authority the Council had given him" and therefore he felt the contingencies of our ratified agreement had been met and we had an agreement. This means the negotiated retirement benefit improvements will be approved retroactive to July 1, 2002.

Congratulations to all City employees in MEA's bargaining units on a contract that over the next three years will greatly enhance their City benefits!

A big thank you goes out to all of you who took the time to come out and ratify the contract.

MEA 5609

San Diego Municipal Employees Association
4185 Home Avenue
San Diego, CA 92105
(619) 264-6632 FAX (619) 264-0405
www.sdmea.org



Exhibit 42

SDCERS' 6/21/96 RETIREMENT BOARD MINUTES

SDCERS' Retirement Board of Administration held its regularly scheduled meeting in City Council Chambers. Location 202 "C" Street, 12th floor, San Diego, CA 92101. The meeting was called to order at 1:37 p.m. by Keith Enerson.

Board Present: Keith Enerson, Chair, Ron Saathoff, Bruce Herring, Jack Katz, John Casey, Paul Barnett, Sharon Wilkinson, Terri Webster, Conny Jamison, Robert Scannell, John Torres, Ann Parode

Also Present: Lawrence Grissom, Lori Chapin, Sally Zumalt, Cynthia Hilliard, Jan Beaton, Rosemarie Palestini, Doug McCalla, Ray Fleming, Linda Brewton, Judy Folsom, Christine Folsom, Ed Oliva, Cathy Lexin, Bill Lopez, Sam Salazar, Gene Shephard, Jim Gleason, Robert West, David Crow, Robin Oleksow, Bruce Eidelson, Bill Peterson, Tom Rhodes, Dwight Hamilton, Rick Roeder, Judie Italiano, Jim Barros, Jack McGrory, John Kaheny, Cheri Miller, German Gonzalez, Mike Phillips, Mike Barclay, Chip Rome, Paul Caine, Martha Spano, Phil Lavelle, Louis Philander, Dina Webb

L	CONSENT AGENDA ITEMS #1 - 5 (ACTION REQUESTED)
----------	---

MOTION TO APPROVE SERVICE RETIREMENTS #1A, 1C-I, 1K, 1M (FAWCETT, MORENO, REY, GAST, SHAW, THURSTON, PAULES, AWBREY, MURPHY); AND, CONSENT AGENDA ITEMS 2-5:

SECOND:

**JACK KATZ
BRUCE HERRING**

DISCUSSION:

Mr. Casey stated that the Board had requested that these individuals be notified of the possibility of benefit increases that may occur in the near future.

Mr. Grissom ensured Mr. Casey that this had occurred. Because of Staff's notification, two of the service retirement applicants had withdrawn their requests prior to today's meeting.

Call for the Question to approve.

**BOARD:
MOTION PASSED.**

UNANIMOUS

1. SERVICE RETIREMENTS - APPROVAL RECOMMENDED

- A.** James C. Fawcett, Community Development Specialist IV, Planning. Age 57.00, with 23.00 Years of creditable service. Effective date of 6/5/96. Estimated monthly allowance of \$1,729.79 plus \$64.12 Cost-of-living annuity, maximum benefit with surviving spouse provisions.
- B.** Roy E. Tyler, Heavy Equipment Operator, Environmental Services/Waste Disposal.

SDC016021

276.118

0276-0118



Call for the Question to continue.

BOARD: 8 IN FAVOR: JACK KATZ, ANN PARODE, TERRI WEBSTER, BRUCE HERRING, SHARON WILKINSON, KEITH ENERSON, RON SAATHOFF, JOHN CASEY
4 OPPOSED: ROBERT SCANNELL, PAUL BARNETT, JOHN TORRES, CONNY JAMISON

MOTION PASSED.

VIII. ADMINISTRATION - CONSIDERATION & REQUEST FOR ACTION

A. CITY MANAGER'S PROPOSALS REGARDING CONTRIBUTION RATES, BENEFITS AND DISTRIBUTION OF EARNINGS

Mr. Enerson provided the ground rules for how this item would be addressed. He stated that the Manager would first be given the opportunity to present their proposal; the Board would be given the opportunity to ask questions and make comments; and then public comment and questions would be heard. Additionally, he reported that the Board's fiduciary counsel Dwight Hamilton, and actuary Rick Roeder are available to address questions.

Mr. McGrory spoke to the revised City Manager's proposal (a copy which is included as a part of the record.) He stated that over the past few years, there have been ongoing discussions between the City Manager's Office and the Retirement Board regarding the funding of the retirement system. Those range from the obligation for retiree health insurance, which currently rests with the City; benefit levels for retirees in terms of benefits and the 13th check; and general member benefit levels. Concurrently, the City Manager's office has had concerns regarding the way the City's contribution rate into the System have been calculated. He stated that in 1992 when the funding method changed from EAN (Entry Age Normal) to PUC (Projected Unit Credit), the City had not anticipated the level of volatility that has been realized on a year-to-year basis. Because of the changes in the demographics of the System, particularly in the increased average age of active members, the City's contribution rates have been driven up to a level unanticipated by the City, and the level of fluctuation in these rates have caused tremendous problems in terms of year-to-year budgeting.

Mr. McGrory reported that after extensive discussions with members of the Board, employee organizations, a series of fiduciary counsels, and the System's actuary the draft Manager's proposal has come back to the Board with recommended benefits improvements including: 1) a series of changes to the 13th check benefit for employees who retire prior to 1980 and 1970, 2) recommendations to the retiree health insurance for those who retired prior to 1980; 3) transferring the health insurance obligation from the City to the System; 4) changes to the benefit formula for safety and general members; 5) changes to the disability formula for general members; 6) a recommended DROP Plan, which would allow

SDC016032

276.129

0276-0129



SDCERS' 6/21/96 RETIREMENT BOARD MINUTES
PAGE 31

of this plan must come at no additional cost to the City. In response to concerns raised regarding the future financial strength of the City, Mr. McGrory stated that this is not an attempt to achieve a reduction or holiday in the City's contribution rates, but rather an attempt to responsibly manage financially, the significant increase in the City's contribution rates. From a business prospective, he stated that he believes this is a wise decision.

In summary, Mr. McGrory stated that this proposal would transfer the liability of the health care from the City to the System and would raise the general member benefit levels to market rate. Lastly, he stated that in looking at the window of opportunity which has resulted from the tremendous level of earnings in the System, this is an opportune time to make these changes and return to the Entry Age Normal funding method.

~~Call for the question as amended.~~

~~BOARD:~~

8 IN FAVOR: TERRI WEBSTER, BRUCE HERRING,
SHARON WILKINSON, ROBERT SCANNELL, KEITH
ENERSON, RON SAATHOFF, JOHN TORRES,
CONNY JAMISON

3 OPPOSED: JACK KATZ, ANN PARODE, PAUL
BARNETT

MOTION PASSED.

(Mr. Casey had departed the meeting and was not present for this vote. His vote will not be reflected in the Minutes from this point, forward.)

Mr. Katz stated for the record, that he believes that the City Manager and Staff had presented a very impressive proposal. However, the reason he votes in opposition to the motion were for the reasons outlined by Mr. Gleason. He stated that he does not believe that this proposal would be in the best interest of the retirees.

B. STATUS REPORT ON FOLLOW-UP TO THE BOARD'S STRATEGIC PLANNING WORKSHOP

Continued to July 19, 1996.

C. APPOINTMENT OF COMMITTEE MEMBERS

Mr. Enerson stated that this item would be continued until next month. He asked that Trustees notify Staff of any Committees they would like to be appointed to.

IX. INVESTMENT COMMITTEE MEETING REPORT - ROBERT SCANNELL, CHAIR

SDC016051

276.148

0276-0148



SDCERS' 6/21/96 RETIREMENT BOARD MINUTES
PAGE 14

full actuarial PUC rate. An outside date would be set in terms of equalizing the rate between the City budgeted, paid rate and the PUC rate.

Mr. McGrory stated that their proposal addresses how liabilities would be paid and the restructuring proposal in terms of ramping-up the City's actual recommended rate in increments of 10 years. This would be accomplished by taking the funding (the surplus earnings between 1995 and 1996 of \$38.8 million and \$85 million), along with the stabilization reserve (which was created last year) for a total of \$135 million. He stated that \$30 million of that would be for the City's contribution gap between what they would ramp-up in the budget and the actuarial rate, with the remainder to be used to pay for the past liability incurred by the benefit improvements. He stated that prospective liabilities would be paid for by an equal increase in both the employer and employee contribution rate.

Additionally, the City Manager's Office is asking that the Board adopt the budgeted FY 96 rate and the recommended FY 97 rate. He reminded the Board that this must be treated as a package. If this is not approved, he stated that come January, 1997 the City would repay the contribution rate gap for 1996 and 1997, and none of the benefit improvements would occur.

Prior to Board questions, Mr. Enerson asked Mr. Grissom to clarify the reason for the Draft letter presented by the System's fiduciary counsel, Dwight Hamilton.

Mr. Grissom responded that Mr. Hamilton's firm is headquartered in Denver. However, prior to retaining Mr. Hamilton, his firm had associated itself with a Los Angeles based law firm who had not formally finalized the draft opinion. Mr. Grissom stated that the draft opinion was distributed and that no changes are anticipated. In addition, a Staff memo had been included under the Administration Tab of the Board packet related to items that the Board has been asked to address.

Mr. Grissom clarified that not only must this proposal pass legal counsel's review, it must also be approved by the Board, City Council, and a vote of the membership.

MOTION TO APPROVE THE CITY MANAGER'S PROPOSAL DATED JUNE 21, 1996 (A COPY WHICH IS INCLUDED AS A PART OF THIS RECORD):

SECOND:

BRUCE HERRING
ROBERT SCANNELL

SDC016034

276-131

0276-0131



Exhibit 43

2002-2005



MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING was made and entered into on July 1, 2002, and shall expire and otherwise be fully terminated at 12:00 midnight on June 30, 2005.

By and Between

The City of San Diego

And

San Diego Municipal
Employees' Association

Exhibit 44

From: Elmer Heap
To: Ed Ryan
Date: Tuesday, June 11, 2002 3:43:34 PM
Subject: Letter

Ed, I spoke with Mike S.. He confirmed for me that there is no criminal liability. You will see that I have made that clear in the memo along with our office opinion as to why we can support this approach. Regarding the public safety exception to safety units, Mike indicated the County is wrong if they are not taking out taxes pursuant to FICA. Please let me know of any concerns you may have. If it is okay, I'll confirm with Casey if he wants to sign or have me sign.

Rich, regarding the public purpose. It will be included in the Reso. adopted by Council when they approve of the MOUs. I told Ed earlier today that I would run that language by the both of you to make sure we are all comfortable with the language.

E

CC: Rich Snapper

Exhibit 45

From: Elmer Heap
To: Ed Ryan
Date: Friday, June 14, 2002 8:29:58 AM
Subject: Re: Letter

I think that captures the remaining issues we have spoken about. The mechanics on the current incumbents would be started by Dan is my understanding. E

>>> Ed Ryan 06/14/02 07:28AM >>>

Elmer, ok, thanks. It seems as though we have 3 remaining areas re Pres. leave:

1. Have your liability lawyers review the mou language to make it as strong as possible to put the Pres's liability to the unions. in the indemnity language.
2. We need to resolve the mechanics on the current incumbents.
3. Then the reso language.

Can you think of anything else? Who starts the ball rolling on the current incumbents? Dan? Cathy?

>>> Elmer Heap 6/13/2002 5:19:58 PM >>>

Ed, it's taken care of and I appreciate your suggestion. We discussed earlier and I included language addressing the policy call by Mayor and Council but not your suggested language dealing with AC and PD. I will check with Casey as far as who needs to sign. E

>>> Ed Ryan 06/13/02 03:45PM >>>

Elmer, good changes. Thanks. Would you consider adding as the last sentence of the last paragraph before "please contact me" the following:

Also , as you know the Mayor and City Council ,as well as the unions ,agreed to indemnify the A&C and the Pers. Dir..

>>> Elmer Heap 6/13/2002 1:17:30 PM >>>

I amended letter in accordance with our discussion this morning. Let me know at your convenience if it addresses your issues. Thanks

Exhibit 46

ATTORNEY TO CLIENT
CORRESPONDENCE

FOR CONFIDENTIAL USE ONLY

Office of
The City Attorney
City of San Diego

MEMORANDUM
MS 59

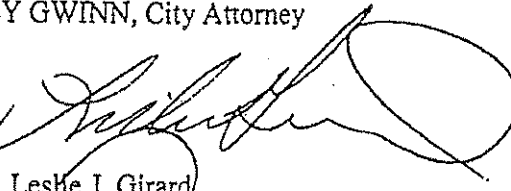
(619) 236-6220

DATE: August 3, 2004
TO: Rich Snapper, Personnel Director
FROM: City Attorney
SUBJECT: Indemnification re: Presidential Leave

This memorandum will provide written confirmation that on May 13, 2002, in closed session the City Council, by a 9-0 vote, agreed to defend and indemnify you and the City Auditor & Comptroller with respect to matters relating to the issue of "Presidential Leave" discussed during the 2002 meet & confer process (Spring of 2002). Please do not hesitate to call me if you have any questions.

CASEY GWINN, City Attorney

By



Leshe J. Girard
Assistant City Attorney

LJG:ljk:km

Exhibit 47

From: Michael Rivo
To: Cathy Lexin, Ed Ryan, Loraine Chapin, Paul Barnett, Roxanne Story Parks
Date: Fri, Sep 6, 2002 8:59 AM
Subject: draft Presidential Leave Resolution

Please review the attached and get back to me at your earliest convenience with your comments/suggestions/ revisions. Thx.

CC: Bob Lawrence, Dan Kelley, Elmer Heap, Holly Reed-Falk, Lawrence Grissom, Sharon Marshall, Terri Webster

(R-2002-XXXX)

RESOLUTION NUMBER R- _____

ADOPTED ON _____

RESOLUTION OF THE CITY OF SAN DIEGO AUTHORIZING
RETIREMENT BENEFITS AND RETIREMENT CONTRIBUTIONS
FOR INCUMBENT PRESIDENTS OF
THE SAN DIEGO MUNICIPAL EMPLOYEES' ASSOCIATION,
POLICE OFFICERS' ASSOCIATION, AND LOCAL 145,
THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS,
AFL-CIO

WHEREAS, the City Council has the sole authority to establish the retirement benefits available under the San Diego City Employee's Retirement System ("System") and

WHEREAS, the Board of Administration ("Retirement Board") for the System has the sole authority to manage the System, determine the rights to benefits under the System and invest the System's Trust Fund; and

WHEREAS, the incumbent presidents of the San Diego Municipal Employees' Association (MEA), Police Officers' Association (POA), and Local 145, the International Association of Fire Fighters, AFL-CIO (Local 145) (collectively referred to as "unions"), receive compensation either in whole or in part from their respective union in addition to or in lieu of any salary paid to them by the City; and

WHEREAS, the City, pursuant to the direction of the City Council, met and conferred with each of the above unions regarding standardizing the retirement benefits and employer and employee contributions for the incumbent presidents of those unions; and

WHEREAS, the City and those unions agreed to base the retirement benefit formula for those incumbent union presidents on their respective high one-year salary from their combined City and union salary, not to exceed the annual salary of the City's Labor Relations Manager; and

WHEREAS, these incumbent union presidents have either paid or agreed to pay the employer's and employee's share of the retirement contribution based on their combined City and

union salary; and

WHEREAS, the incumbent president of Local 145 has agreed to pay the employer's and employee's share of the retirement contribution for fiscal year 2002 based on his combined City and union-paid salary, but not to exceed a combined salary of \$108,000; and

WHEREAS, effective July 1, 2002, these incumbent union presidents agree to pay, in addition to their payment to the System of their employee's contribution for their City-paid salary, the employer's and employee's contribution to the System for their union-paid salary, which combined salary shall not exceed the salary of the City's Labor Relations Manager; and

WHEREAS, the City and POA have agreed that the former presidents of POA who have not yet retired from City service may elect the same high one-year formula as these incumbent union presidents; and

WHEREAS, the high one-year salary for each of the incumbent union presidents and the former POA union presidents who have not yet retired from City service is subject to verification of such union salary by the City Auditor and Controller and the Retirement Board for the System; and

WHEREAS, these incumbent union presidents, and the former POA presidents who have not yet retired from City service are eligible to participate in the City's Deferred Retirement Option Program (DROP); and

WHEREAS, if these incumbent union presidents, or former POA union presidents who have not yet retired from City service, choose to enter DROP, they, or their respective union, agrees to pay, in addition to their 3.05% DROP contribution for their City-paid salary, the employer's and employee's 3.05% DROP contribution for their union-paid salary; and

WHEREAS, the Retirement Board has approved the above-stated actions; NOW,
THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the high one-year salary for purposes of calculating the retirement benefit formula for incumbent presidents of the San Diego Municipal Employees' Association (MEA), Police Officers' Association (POA), and Local 145, the International Association of Fire Fighters, AFL-CIO (Local 145) (collectively referred to as

"unions"), who receive or did receive compensation either in whole or in part from their respective union in addition to or in lieu of any salary paid to them by the City, shall be based on the combined City and union-paid salary, not to exceed the annual salary of the City's Labor Relations Manager.

BE IT FURTHER RESOLVED, that the high one-year salary for purposes of calculating the retirement benefit formula for the former POA presidents who have not yet retired from City service, who, while serving as president of POA, received compensation either in whole or in part from POA in addition to or in lieu of any salary paid to them by the City, shall be based on the combined City and union-paid salary, not to exceed the annual salary of the City's Labor Relations Manager.

BE IT FURTHER RESOLVED, that the employer's and employee's share of the retirement contribution for these incumbent union presidents shall be based on their combined City and union-paid salary, which shall be paid by the union presidents or their respective union.

BE IT FURTHER RESOLVED, that the employer's and employee's share of the retirement contribution for fiscal year 2002 for the incumbent president of Local 145 shall be based on his combined City and union-paid salary, but not to exceed a combined salary of \$108,000.

BE IT FURTHER RESOLVED, that effective July 1, 2002, the employer's and employee's contribution to the System for the union-paid salary for the incumbent union presidents shall be paid by those presidents in addition to their payment to the System of their employee's contribution for their City-paid salary, but which combined salary shall not exceed the salary of the City's Labor Relations Manager.

BE IT FURTHER RESOLVED, that the high one-year salary for each of the incumbent union presidents and the former POA presidents who have not yet retired from City service is subject to verification of such union salary by the City Auditor and Controller and the Retirement Board.

BE IT FURTHER RESOLVED, that if these incumbent union presidents, or former POA union presidents who have not yet retired from City service, choose to enter the City's Deferred Retirement Option Plan (DROP), they, or their respective union, shall pay, in addition to their 3.05%

DROP contribution for their City-paid salary, the employer's and employee's 3.05% DROP contribution for their union-paid salary.

BE IT FURTHER RESOLVED, that this resolution shall only apply to the incumbent union presidents at the time of the adoption of this resolution, and the former POA presidents who have not yet retired from City service but did receive a salary from POA while serving as POA president.

APPROVED: CASEY GWINN, City Attorney

By _____
Michael Rivo
Deputy City Attorney

Exhibit 48

From: Loraine Chapin
To: Cathy Lexin; Ed Ryan; Michael Rivo; Paul Barnet...
Date: Fri, Sep 6, 2002 12:00 PM
Subject: Re: draft Presidential Leave Resolution

I agree with all of Roxanne's comments and in addition add one. The Board has not reviewed the Presidential Leave issue and does not have to. The Resolution at the top of page 3 indicates the Board has approved. This whereas should be deleted.

Lori

>>> Michael Rivo 09/06/02 08:59AM >>>

Please review the attached and get back to me at your earliest convenience with your comments/suggestions/ revisions. Thx.

CC: Bob Lawrence; Dan Kelley; Elmer Heap; Holly Ree...

Exhibit 49

From: Michael Rivo
To: Dan Kelley
Date: Tue, Sep 17, 2002 9:57 AM
Subject: Re: Incumbent Presidential Leave Resolution

I'm still working with Bob Lawrence on a few issues they still have with it. As soon as I wrap that up, it'll be on its way.

>>> Dan Kelley 09/16 2:49 PM >>>

Please send me your final incumbent Presidential Leave Resolution so I can forward to the three affected union presidents and Ann Smith for final review.

Thanks

Dan

CC: Mike McGhee, Stan Griffith

Exhibit 50

From: Michael Rivo
To: Dan Kelley
Date: Mon, Oct 7, 2002 10:18 AM
Subject: revised Prez Leave Reso

The last paragraph was revised per Ann Smith's suggestion. Please route as appropriate.

CC: Elmer Heap

Revised 10/7/02 @ 10:15 a.m.

(R-2002-XXXX)

RESOLUTION NUMBER R- _____

ADOPTED ON _____

RESOLUTION OF THE CITY OF SAN DIEGO AUTHORIZING
RETIREMENT BENEFITS AND RETIREMENT
CONTRIBUTIONS FOR INCUMBENT PRESIDENTS OF
THE SAN DIEGO MUNICIPAL EMPLOYEES' ASSOCIATION,
POLICE OFFICERS' ASSOCIATION, AND LOCAL 145,
THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS,
AFL-CIO

WHEREAS, the City Council has the sole authority to establish the retirement benefits available under the San Diego City Employee's Retirement System ("System") and

WHEREAS, the Board of Administration ("Retirement Board") for the System has the sole authority to manage the System, determine the rights to benefits under the System and invest the System's Trust Fund; and

WHEREAS, the incumbent presidents of the San Diego Municipal Employees' Association (MEA), Police Officers' Association (POA), and Local 145, the International Association of Fire Fighters, AFL-CIO (Local 145) (collectively referred to as "unions"), receive compensation either in whole or in part from their respective union in addition to or in lieu of any salary paid to them by the City; and

WHEREAS, the City Council recognizes the value to the City, its represented employees, and the public, of the services rendered by the presidents of their respective employee unions; and WHEREAS, the City, pursuant to the direction of the City Council, met and conferred with each of the above unions and reached agreement with those unions regarding standardizing the retirement benefits and employer and employee contributions for the incumbent presidents of those unions; and

WHEREAS, the City and those unions agreed to base the retirement benefit formula for

those incumbent union presidents on their respective high one-year salary from their combined City and union salary, not to exceed the annual base salary of the City's Labor Relations Manager; and

WHEREAS, these incumbent union presidents have either paid or agreed to pay biweekly the employer's and employee's biweekly share of the retirement contribution based on their combined City and union salary; and

WHEREAS, the incumbent president of Local 145 has agreed to pay the employer's and employee's biweekly share of the retirement contribution for fiscal year 2002 based on his combined City and union salary, but not to exceed a combined salary of \$108,000; and

WHEREAS, effective July 1, 2002, these incumbent union presidents agree to pay, in addition to their payment to the System of their employee's biweekly contribution for their City salary, the employer's and employee's biweekly contribution to the System for their union salary, which combined salary shall not exceed the base salary of the City's Labor Relations Manager; and

WHEREAS, the City and POA have agreed that the former presidents of POA who have not yet retired from City service may elect the same high one-year formula as these incumbent union presidents; and

WHEREAS, the unions have agreed to an audit of their payroll records by the City's Auditor and Comptroller, or his designee, for purposes of enabling the City to verify their respective president's or former presidents' salary paid by the unions, and

WHEREAS, these incumbent union presidents, and the former POA presidents who have not yet retired from City service are eligible to participate in the City's Deferred Retirement Option Program (DROP); and

WHEREAS, if these incumbent union presidents, or former POA union presidents who have not yet retired from City service, choose to enter DROP, they, or their respective union,

agree to pay, in addition to their biweekly 3.05% DROP contribution for their City salary, the employer's and employee's biweekly 3.05% DROP contribution for their union salary; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the Council finds a value to the City, its employees, and the public, for the services rendered by the respective presidents of the City's recognized employee unions.

BE IT FURTHER RESOLVED, that the high one-year salary for purposes of calculating the retirement benefit formula for incumbent presidents of the San Diego Municipal Employees' Association (MEA), Police Officers' Association (POA), and Local 145, the International Association of Fire Fighters, AFL-CIO (Local 145) (collectively referred to as "unions"), who receive or did receive compensation either in whole or in part from their respective union in addition to or in lieu of any salary paid to them by the City, shall be based on their respective combined City and union salary, not to exceed the annual base salary of the City's Labor Relations Manager.

BE IT FURTHER RESOLVED, that the high one-year salary for purposes of calculating the retirement benefit formula for the former POA presidents who have not yet retired from City service, who, while serving as president of POA, received compensation either in whole or in part from POA in addition to or in lieu of any salary paid to them by the City, shall be based on their respective combined City and union salary, not to exceed the annual base salary of the City's Labor Relations Manager.

BE IT FURTHER RESOLVED, that the employer's and employee's share of the retirement contribution for these incumbent union presidents shall be based on their respective combined City and union salary, not to exceed the annual base salary of the City's Labor Relations Manager.

BE IT FURTHER RESOLVED, that the employer's and employee's biweekly share of

the retirement contribution for fiscal year 2002 for the incumbent president of Local 145 shall be based on his combined City and union salary, but not to exceed a combined salary of \$108,000.

BE IT FURTHER RESOLVED, that effective July 1, 2002, the employer's and employee's contribution to the System for the union salary for the incumbent union presidents shall be paid biweekly by those presidents or their respective union in addition to their biweekly payment to the System of their employee's contribution for their City salary, but which combined salary shall not exceed the base salary of the City's Labor Relations Manager.

BE IT FURTHER RESOLVED, that the salary of the City's Labor Relations Manager, for purposes of this Resolution, shall mean his salary on July 1 of the fiscal year.

BE IT FURTHER RESOLVED, that the City's Auditor and Comptroller, or his or her designee, shall have the right to inspect the payroll records of the unions for purposes of enabling the City to verify the salary paid by the unions to their respective president, and that paid to the former POA presidents who have not yet retired from City service.

BE IT FURTHER RESOLVED, that if these incumbent union presidents, or former POA union presidents who have not yet retired from City service, choose to enter the City's Deferred Retirement Option Plan (DROP), they, or their respective union, shall pay biweekly, in addition to their biweekly 3.05% DROP contribution for their City salary, the employer's and employee's biweekly 3.05% DROP contribution for their union salary.

BE IT FURTHER RESOLVED, that this resolution shall only apply to the incumbent union presidents at the time of the adoption of this resolution, and the former POA presidents who have not yet retired from City service but who did receive a salary from POA while serving as POA president.

BE IT FURTHER RESOLVED, that upon adoption of this resolution, the affected incumbent union presidents shall make a determination as to the election of this benefit, with implementation of the benefit subject to the City Manager's confirmation that the terms of this

resolution have been satisfied.

APPROVED: CASEY GWINN, City Attorney

By _____
Michael Rivo
Deputy City Attorney

Exhibit 51

REQUEST FOR COUNCIL ACTION

CITY OF SAN DIEGO

N/A

CITY ATTORNEY

2. FROM: (ORIGINATING DEPARTMENT)

LABOR RELATIONS/CITY MANAGER

3. DATE

10/07/2002

Approving and Ratifying FY 2003 - 2005 Memoranda of Understanding

FOR INFORMATION, CONTACT: (NAME & MAIL STA.)

Jan Kelley, Mail Station 9A

6. TELEPHONE NO.

236-5964

7. CHECK HERE IF BOX 1472A, "DOCKET SUPPORTING INFORMATION," HAS BEEN COMPLETED ON PAGE 2:



COMPLETE FOR ACCOUNTING

UND

EPT.

ORGANIZATION

OBJECT ACCOUNT

OB ORDER

CLP. NO.

AMOUNT

9. ADDITIONAL INFORMATION / ESTIMATED COST:

Costs associated with the agreements are contained in the FY 2003 budget. Costs for the 1.6 & 1.7% pick-ups to be funded out of CERS Reserve and will cease when reserve runs out.

ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	DEPARTMENT DIRECTOR	<i>[Signature]</i>	10/10/02	4	CITY MANAGER	<i>[Signature]</i>	10/14/02
2	EOCP	<i>[Signature]</i>	10/11/02	5	AUDITOR	<i>[Signature]</i>	10/11/02
	Fin Mgr	<i>[Signature]</i>	10.11.2002	6	CITY ATTORNEY	Michael R. Rio	10/14/02
				7	ORIGINATING DEPARTMENT	<i>[Signature]</i>	10/10/02
					MGR. DOCKET COORD.	<i>[Signature]</i>	10/11/02
					RULES COMMITTEE	<input checked="" type="checkbox"/> CONSENT <input type="checkbox"/> ADOPTION	10/21
						Refer to _____ Date _____	

1. PREPARATION OF:

☒ RESOLUTION(S)

☐ ORDINANCE(S)

☐ AGREEMENT(S)

☐ DEED(S)

Prepare a Resolution to approve the FY 2003 - 2005 Memoranda of Understanding for Local 145 of the International Association of Fire Fighters (Local 145); Municipal Employees Association (MEA); and AFSCME Local 127.

Prepare a Resolution to authorize the Retirement Benefits and Retirement Contributions for incumbent presidents for MEA, POA and Local 145.

1A. MANAGER'S RECOMMENDATIONS:

Approve the Resolution

R - 297212

OCT 21 2002

R - 297213

2. SPECIAL CONDITIONS (REFER TO A.R. 3.28 FOR INFORMATION ON COMPLETING THIS SECTION.)

ENVIRONMENTAL IMPACT: This activity is not a project and therefore exempt from CEQA guidelines Section 15060(c)(3).

SD RET OFFICE
2002 OCT 31 AM 11:59

Item 111

REQUEST FOR COUNCIL ACTION CITY OF SAN DIEGO				1. CERTIFICATE NUMBER: N/A			
CITY ATTORNEY		2. FROM: (ORIGINATING DEPARTMENT) LABOR RELATIONS/CITY MANAGER		3. DATE 10/07/2002			
4. SUBJECT Approving and Ratifying FY 2003 - 2005 Memoranda of Understanding							
5. FOR INFORMATION, CONTACT: (NAME & MAIL STA.) Dan Kelley, Mail Station 9A			6. TELEPHONE NO. 236-5964		7. CHECK HERE IF BOX 1472A, "DOCKET SUPPORTING INFORMATION," HAS BEEN COMPLETED ON PAGE 2: <input checked="" type="checkbox"/>		
8. COMPLETE FOR ACCOUNTING							
FUND				9. ADDITIONAL INFORMATION / ESTIMATED COST: Costs associated with the agreements are contained in the FY 2003 budget. Costs for the 1.6 & 1.7% pick-ups to be funded out of CERS Reserve and will cease when reserve runs out.			
DEPT.							
ORGANIZATION							
OBJECT ACCOUNT							
JOB ORDER							
C.L.P. NO.							
AMOUNT							
10. ROUTING AND APPROVALS							
ROUTE (M)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (N)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	DEPARTMENT DIRECTOR	<i>[Signature]</i>	10/10/02	4	CITY MANAGER	<i>[Signature]</i>	10/10/02
2	EOCP	<i>[Signature]</i>	10/11/02	5	AUDITOR	<i>[Signature]</i>	10/11/02
3	Fin Mgt	<i>[Signature]</i>	10.11.2002	6	CITY ATTORNEY	<i>[Signature]</i>	10/11/02
				7	ORIGINATING DEPARTMENT		
				MGR. DOCKET COORD. _____ COUNCIL REF. _____ <input checked="" type="checkbox"/> RULES COMMITTEE <input type="checkbox"/> CONSENT <input type="checkbox"/> ADOPTION <input type="checkbox"/> Refer to _____ Date _____			
11. PREPARATION OF: <input checked="" type="checkbox"/> RESOLUTION(S) <input type="checkbox"/> ORDINANCE(S) <input type="checkbox"/> AGREEMENT(S) <input type="checkbox"/> DEED(S)							
Prepare a Resolution to approve the FY 2003 - 2005 Memoranda of Understanding for Local 145 of the International Association of Fire Fighters (Local 145); Municipal Employees Association (MEA); and AFSCME Local 127. Prepare a Resolution to authorize the Retirement Benefits and Retirement Contributions for incumbent presidents for MEA, POA and Local 145.							
11a. MANAGER'S RECOMMENDATIONS: Approve the Resolution							
12. SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION.) ENVIRONMENTAL IMPACT: This activity is not a project and therefore exempt from CEQA guidelines Section 15060(c)(3).							

DOCKET SUPPORTING INFORMATION
CITY OF SAN DIEGO

DATE:

10/07/2002

SUBJECT:

Approving and Ratifying FY 2003 - 2005 Memoranda of Understanding

BACKGROUND:

The Management Team of the City of San Diego has met and conferred with the Labor Unions and reached agreement on FY 2003 - 2005 Memoranda of Understanding with Local 145 of the International Association of Fire Fighters, Municipal Employees Association (MEA) and AFSCME Local 127, regarding wages, hours, and other terms and conditions of employment.

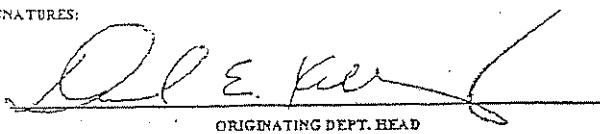
Pursuant to these negotiations, the Management Team, Local 145, MEA and Local 127 have agreed to the provisions contained in the successor Memoranda of Understanding on file with the City Clerk's Office.

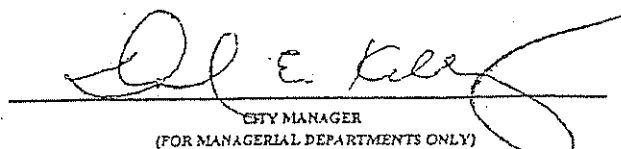
FISCAL IMPACT:

Costs associated with these agreements are contained in the FY 2003 budget.

BY LINE: (CITY MANAGER / DEPT. HEAD / AUTHOR INITIALS)

SIGNATURES:


ORIGINATING DEPT. HEAD


CITY MANAGER
(FOR MANAGERIAL DEPARTMENTS ONLY)

CM-1472A

LAST REV 3/00

DIST ATTY 03-23-05

006373

LAB-KEL-0144

Exhibit 52

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: B214-435.)

CONSENT MOTION BY PETERS TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-111: Two actions related to Approving and Ratifying FY2003-2005 Memoranda of Understanding Regarding Employment Benefits.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2003-528) ADOPTED AS RESOLUTION R-297212

~~Authorizing retirement benefits and retirement contributions for incumbent presidents of the San Diego Municipal Employees' Association, Police Officer's Association, and Local 145, the International Association of Fire Fighters, AFL-CIO.~~

Subitem-B: (R-2003-535) ADOPTED AS RESOLUTION R-297213

Approving the agreements regarding wages, hours and other terms and conditions of employment between the City of San Diego and the San Diego Municipal Employees' Association; Local 145 of the International Association of Fire Fighters; and Local 127, AFSCME, AFL-CIO.

CITY MANAGER SUPPORTING INFORMATION:

The Management Team of the City of San Diego has met and conferred with the Labor Unions and reached agreement on FY2003-2005 Memoranda of Understanding with Local 145 of the International Association of Fire Fighters, Municipal Employees Association (MEA) and AFSCME Local 127, regarding wages, hours, and other terms and conditions of employment.

Pursuant to these negotiations, the Management Team, Local 145, MEA and Local 127 have agreed to the provisions contained in the successor Memoranda of Understanding.

FISCAL IMPACT:

Costs associated with these agreements are contained in the FY2003 budget.

Ewell/Kelley

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: B214-435.)

CONSENT MOTION BY PETERS TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-112: Excusing Councilmember Peters from attending Council Meetings of July 29 and September 9, 2002 and Committee Meetings of July 31 and September 18, 2002.

COUNCILMEMBER PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2003-520)

ADOPTED AS RESOLUTION R-297214

Excusing Councilmember Scott Peters from attending the following regularly scheduled meetings:

City Council meeting of July 29, 2002, to serve on the California Commission on Taxation in the New Economy;

City Council meeting of September 9, 2002 to serve on the California Coastal Commission;

Land Use and Housing, and Natural Resources and Culture Committee meetings of July 31, 2002, to testify in Sacramento before the State Water Resources Control Board;

Land Use and Housing, and Natural Resources and Culture Committee meetings of September 18, 2002, to serve on the California Commission on Taxation in the New Economy.

Exhibit 53

11/1/02
Ship
(R-2003-528)

RESOLUTION NUMBER R- 297212

ADOPTED ON OCT 21 2002

RESOLUTION OF THE CITY OF SAN DIEGO AUTHORIZING
RETIREMENT BENEFITS AND RETIREMENT
CONTRIBUTIONS FOR INCUMBENT PRESIDENTS OF
THE SAN DIEGO MUNICIPAL EMPLOYEES' ASSOCIATION,
POLICE OFFICERS' ASSOCIATION, AND LOCAL 145,
THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS,
AFL-CIO

WHEREAS, the City Council has the sole authority to establish the retirement benefits
available under the San Diego City Employee's Retirement System ("System") and

WHEREAS, the Board of Administration ("Retirement Board") for the System has the sole
authority to manage the System, determine the rights to benefits under the System and invest the
System's Trust Fund; and

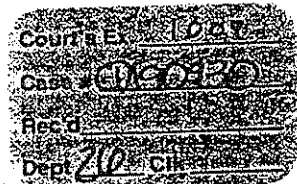
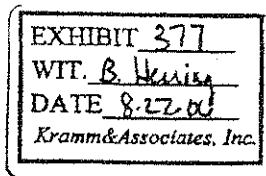
WHEREAS, the incumbent presidents of the San Diego Municipal Employees' Association
(MEA), Police Officers' Association (POA), and Local 145, the International Association of Fire
Fighters, AFL-CIO (Local 145) (collectively referred to as "unions"), receive compensation either in
whole or in part from their respective union in addition to or in lieu of any salary paid to them by the
City; and

WHEREAS, the City Council recognizes the value to the City, its represented employees, and
the public, of the services rendered by the presidents of their respective employee unions; and

WHEREAS, the City, pursuant to the direction of the City Council, met and conferred with each of
the above unions and reached agreement with those unions regarding standardizing the retirement
benefits and employer and employee contributions for the incumbent presidents of those unions; and

WHEREAS, the City and those unions agreed to base the retirement benefit formula for

-PAGE 1 OF 5-



377.1

0377-0001



those incumbent union presidents on their respective high one-year salary from their combined City and union salary, not to exceed the annual base salary of the City's Labor Relations Manager; and

WHEREAS, these incumbent union presidents have either paid or agreed to pay biweekly the employer's and employee's biweekly share of the retirement contribution based on their combined City and union salary; and

WHEREAS, the incumbent president of Local 145 has agreed to pay the employer's and employee's biweekly share of the retirement contribution for fiscal year 2002 based on his combined City and union salary, but not to exceed a combined salary of \$108,000; and

WHEREAS, effective July 1, 2002, these incumbent union presidents agree to pay, in addition to their payment to the System of their employee's biweekly contribution for their City salary, the employer's and employee's biweekly contribution to the System for their union salary, which combined salary shall not exceed the base salary of the City's Labor Relations Manager; and

WHEREAS, the City and POA have agreed that the former presidents of POA who have not yet retired from City service may elect the same high one-year formula as these incumbent union presidents; and

WHEREAS, the unions have agreed to an audit of their payroll records by the City's Auditor and Comptroller, or his designee, for purposes of enabling the City to verify their respective president's or former presidents' salary paid by the unions, and

WHEREAS, these incumbent union presidents, and the former POA presidents who have not yet retired from City service are eligible to participate in the City's Deferred Retirement Option Program (DROP); and

WHEREAS, if these incumbent union presidents, or former POA union presidents who have not yet retired from City service, choose to enter DROP, they, or their respective union, agree to

-PAGE 2 OF 5-

377-2

0377-0002



pay, in addition to their biweekly 3.05% DROP contribution for their City salary, the employer's and employee's biweekly 3.05% DROP contribution for their union salary; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the Council finds a value to the City, its employees, and the public, for the services rendered by the respective presidents of the City's recognized employee unions.

BE IT FURTHER RESOLVED, that the high one-year salary for purposes of calculating the retirement benefit formula for incumbent presidents of the San Diego Municipal Employees' Association (MEA), Police Officers' Association (POA), and Local 145, the International Association of Fire Fighters, AFL-CIO (Local 145) (collectively referred to as "unions"), who receive or did receive compensation either in whole or in part from their respective union in addition to or in lieu of any salary paid to them by the City, shall be based on their respective combined City and union salary, not to exceed the annual base salary of the City's Labor Relations Manager.

BE IT FURTHER RESOLVED, that the high one-year salary for purposes of calculating the retirement benefit formula for the former POA presidents who have not yet retired from City service, who, while serving as president of POA, received compensation either in whole or in part from POA in addition to or in lieu of any salary paid to them by the City, shall be based on their respective combined City and union salary, not to exceed the annual base salary of the City's Labor Relations Manager.

BE IT FURTHER RESOLVED, that the employer's and employee's share of the retirement contribution for these incumbent union presidents shall be based on their respective combined City and union salary, not to exceed the annual base salary of the City's Labor Relations Manager.

BE IT FURTHER RESOLVED, that the employer's and employee's biweekly share of the retirement contribution for fiscal year 2002 for the incumbent president of Local 145 shall be based

-PAGE 3 OF 5-

377.3

0377-0003



on his combined City and union salary, but not to exceed a combined salary of \$108,000.

BE IT FURTHER RESOLVED, that effective July 1, 2002, the employer's and employee's contribution to the System for the union salary for the incumbent union presidents shall be paid biweekly by those presidents or their respective union in addition to their biweekly payment to the System of their employee's contribution for their City salary, but which combined salary shall not exceed the base salary of the City's Labor Relations Manager.

BE IT FURTHER RESOLVED, that the salary of the City's Labor Relations Manager, for purposes of this Resolution, shall mean his salary on July 1 of the fiscal year.

BE IT FURTHER RESOLVED, that the City's Auditor and Comptroller, or his or her designee, shall have the right to inspect the payroll records of the unions for purposes of enabling the City to verify the salary paid by the unions to their respective president, and that paid to the former POA presidents who have not yet retired from City service.

BE IT FURTHER RESOLVED, that if these incumbent union presidents, or former POA union presidents who have not yet retired from City service, choose to enter the City's Deferred Retirement Option Plan (DROP), they, or their respective union, shall pay biweekly, in addition to their biweekly 3.05% DROP contribution for their City salary, the employer's and employee's biweekly 3.05% DROP contribution for their union salary.

BE IT FURTHER RESOLVED, that this resolution shall only apply to the incumbent union presidents at the time of the adoption of this resolution, and the former POA presidents who have not yet retired from City service but who did receive a salary from POA while serving as POA president.

BE IT FURTHER RESOLVED, that upon adoption of this resolution, the affected incumbent union presidents shall make a determination as to the election of this benefit, with implementation of

-PAGE 4 OF 5-

377.4

0377-0004



the benefit subject to the City Manager's confirmation that the terms of this resolution have been satisfied.

APPROVED: CASEY GWINN, City Attorney

By Michael Rivo
Michael Rivo
Deputy City Attorney

MR: als
10/08/02
Or. Dept: Manager's Office
R-2003-528

-PAGE 5 OF 5-

377.5

0377-0005



OCT 21 2002

Passed and adopted by the Council of The City of San Diego on _____
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Scott Peters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Byron Wear	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Toni Atkins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
George Stevens	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brian Malenschein	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Donna Frye	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Madaffer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ralph Inzunza	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Dick Murphy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

(Seal)

DICK MURPHY

Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

By *[Signature]*, Deputy.

Office of the City Clerk, San Diego, California

Resolution 297212
Number _____

OCT 21 2002

Adopted _____

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CC-1276 (Rev. 5-02) Printed on Recycled Paper

377.6

0377-0006



(R-2003-1513)
COR. COPY

RESOLUTION NUMBER R- 2003-1513

ADOPTED ON OCTOBER 21, 2002

RESOLUTION OF THE CITY OF SAN DIEGO AUTHORIZING
RETIREMENT BENEFITS AND RETIREMENT
CONTRIBUTIONS FOR INCUMBENT PRESIDENTS OF
THE SAN DIEGO MUNICIPAL EMPLOYEES' ASSOCIATION,
POLICE OFFICERS' ASSOCIATION, AND LOCAL 145,
THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS,
AFL-CIO

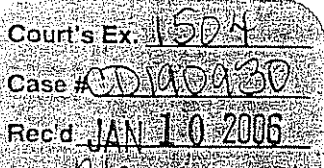
WHEREAS, the City Council has the sole authority to establish the retirement benefits available under the San Diego City Employee's Retirement System ("System") and

WHEREAS, the Board of Administration ("Retirement Board") for the System has the sole authority to manage the System, determine the rights to benefits under the System and invest the System's Trust Fund; and

WHEREAS, the incumbent presidents of the San Diego Municipal Employees' Association (MEA), Police Officers' Association (POA), and Local 145, the International Association of Fire Fighters, AFL-CIO (Local 145) (collectively referred to as "unions"), receive compensation either in whole or in part from their respective union in addition to or in lieu of any salary paid to them by the City; and

WHEREAS, the City Council recognizes the value to the City, its represented employees, and the public, of the services rendered by the presidents of their respective employee unions; and

WHEREAS, the City, pursuant to the direction of the City Council, met and conferred with each of the above unions and reached agreement with those unions regarding standardizing the retirement benefits and employer and employee contributions for the incumbent presidents of those unions; and



WHEREAS, the City and those unions agreed to base the retirement benefit formula for those incumbent union presidents on their respective high one-year salary from their combined City and union salary, not to exceed the annual base salary of the City's Labor Relations Manager; and

WHEREAS, these incumbent union presidents have either paid or agreed to pay biweekly the employer's and employee's biweekly share of the retirement contribution based on their combined City and union salary; and

WHEREAS, the incumbent president of Local 145 has agreed to pay the employer's and employee's biweekly share of the retirement contribution for fiscal year 2002 based on his combined City and union salary, but not to exceed a combined salary of \$108,000; and

WHEREAS, effective July 1, 2002, these incumbent union presidents agree to pay, in addition to their payment to the System of their employee's biweekly contribution for their City salary, the employer's and employee's biweekly contribution to the System for their union salary, which combined salary shall not exceed the base salary of the City's Labor Relations Manager; and

WHEREAS, the City and POA have agreed that the former presidents of POA who have not yet retired from City service may elect the same high one-year formula as these incumbent union presidents; and

WHEREAS, the unions have agreed to an audit of their payroll records by the City's Auditor and Comptroller, or his designee, for purposes of enabling the City to verify their respective president's or former presidents' salary paid by the unions, and

WHEREAS, these incumbent union presidents, and the former POA presidents who have not yet retired from City service are eligible to participate in the City's Deferred Retirement Option Program (DROP); and

WHEREAS, if these incumbent union presidents, or former POA union presidents who have not yet retired from City service, choose to enter DROP, they, or their respective union, agree to pay, in addition to their biweekly 3.05% DROP contribution for their City salary, the employer's and employee's biweekly 3.05% DROP contribution for their union salary; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the Council finds a value to the City, its employees, and the public, for the services rendered by the respective presidents of the City's recognized employee unions.

BE IT FURTHER RESOLVED, that the high one-year salary for purposes of calculating the retirement benefit formula for incumbent presidents of the San Diego Municipal Employees' Association (MEA), Police Officers' Association (POA), and Local 145, the International Association of Fire Fighters, AFL-CIO (Local 145) (collectively referred to as "unions"), who receive or did receive compensation either in whole or in part from their respective union in addition to or in lieu

of any salary paid to them by the City, shall be based on their respective combined City and union salary, not to exceed the annual base salary of the City's Labor Relations Manager.

BE IT FURTHER RESOLVED, that the high one-year salary for purposes of calculating the retirement benefit formula for the former POA presidents who have not yet retired from City service, who, while serving as president of POA, received compensation either in whole or in part from POA in addition to or in lieu of any salary paid to them by the City, shall be based on their respective combined City and union salary, not to exceed the annual base salary of the City's Labor Relations Manager.

BE IT FURTHER RESOLVED, that the employer's and employee's share of the retirement contribution for these incumbent union presidents shall be based on their respective combined City and union salary, not to exceed the annual base salary of the City's Labor Relations Manager.

BE IT FURTHER RESOLVED, that the employer's and employee's biweekly share of the retirement contribution for fiscal year 2002 for the incumbent president of Local 145 shall be based on his combined City and union salary, but not to exceed a combined salary of \$108,000.

BE IT FURTHER RESOLVED, that effective July 1, 2002, the employer's and employee's contribution to the System for the union salary for the incumbent union presidents shall be paid biweekly by those presidents or their respective union in addition to their biweekly payment to the System of their employee's contribution for their City salary, but which combined salary shall not exceed the base salary of the City's Labor Relations Manager.

BE IT FURTHER RESOLVED, that the salary of the City's Labor Relations Manager, for purposes of this Resolution, shall mean his salary on July 1 of the fiscal year.

BE IT FURTHER RESOLVED, that the City's Auditor and Comptroller, or his or her designee, shall have the right to inspect the payroll records of the unions for purposes of enabling the City to verify the salary paid by the unions to their respective president, and that paid to the former POA presidents who have not yet retired from City service.

BE IT FURTHER RESOLVED, that if these incumbent union presidents, or former POA union presidents who have not yet retired from City service, choose to enter the City's Deferred Retirement Option Plan (DROP), they, or their respective union, shall pay biweekly, in addition to their biweekly 3.05% DROP contribution for their City salary, the employer's and employee's biweekly 3.05% DROP contribution for their union salary.

BE IT FURTHER RESOLVED, that this resolution shall only apply to the incumbent union presidents at the time of the adoption of this resolution, and the former POA presidents who have not yet retired from City service but who did receive a salary from POA while serving as POA president.

BE IT FURTHER RESOLVED, that upon adoption of this resolution, the affected incumbent union presidents shall make a determination as to the election of this benefit, with implementation of the benefit subject to the City Manager's confirmation that the terms of this resolution have been satisfied.

APPROVED: CASEY GWINN, City Attorney

By _____
Michael Rivo
Deputy City Attorney

MR: als
10/08/02
5/20/04 Cor. Copy
Or. Dept: Manager's Office
R-2003-1513